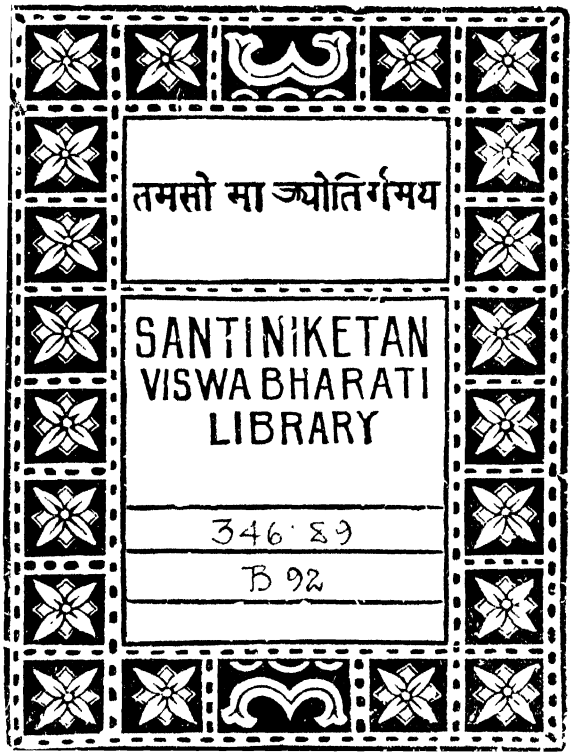

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LEGISLATIVE DEPARTMENT.

THE

BURMA CODE.

THIRD EDITION.

CALCUTTA :
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PREFACE.

THE last edition of the Burma Code, which was published in 1889, was sub-divided into three parts containing the enactments in force in Lower Burma, in Upper Burma and in both Lower and Upper Burma, respectively. That arrangement has on the present occasion been abandoned, because, by the repeal of the Upper Burma Laws Act, 1886 (XX of 1886), and the passing of the Burma Laws Act, 1898 (XIII of 1898), Upper Burma has ceased to be "deregulationized" and has for the future been placed in the same legal position as the older half of the Province. The Acts and Regulations in this volume have, therefore, been printed in consecutive order; but, in view of the fact that only certain of the Acts passed before the 1th November, 1898,* are even now in force in Upper Burma, care has been taken to indicate, in the case of each enactment, the territorial extent of its operation.

2. In May, 1898, the office of Chief Commissioner was raised to the status of a Lieutenant-Governorship, and a local Legislative Council for the Province was simultaneously established.† These changes, combined with the passing of Act XIII of 1898 above referred to, have rendered the last edition of the Code largely obsolete and accentuated the necessity for the issue of a new edition.

3. For purposes of construction, the provisions of the General Clauses Act, 1897 (X of 1897), and those of the Burma General Clauses Act, 1898 (Burma Act I of 1898),‡ should always be borne in mind, the former in connection with all Acts of the Gov-

* The date of the commencement of the Burma Laws Act, 1898 (XIII of 1898), the Act will be found at p. 260 of this volume.

† For the statutory notification appointing the Lieutenant-Governor and constituting the local Legislative Council, *see* the Gazette of India, 1897, Pt. I, p. 261.

‡ For the General Clauses Act, 1897 (X of 1897), *see* General Acts, Ed. 1898, Vol. VI, p. 315; and for the Burma General Clauses Act, 1898 (Burma Act I of 1898), *see* p. 457 of this volume.

ernor General in Council and of Regulations made under the Government of India Act, 1870 (33 Vict., c. 3), and the latter in connection with Acts of the local legislature.

4. In the Appendices have been set forth all notifications now in force relating to the Chin Hills, the Kachin Hill-tracts and the Shan States, and an Index will be found at the end.

5. This volume has been compiled in the Publication Branch under the immediate supervision of Mr. Morison, Barrister-at-Law, Personal Assistant to the Secretary to the Government of India in the Legislative Department.

H. W. C. CARNDUFF,
Depy. Secy. to the Govt. of India,
Legislative Department

SIMLA;
The 1st October, 1899.

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1	2	3	4	5	6
Year	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1818	III	The Bengal State Prisoners Regulation, 1818.[1]	Lower and Upper Burma.	Rep. in parts, *Act XVI of 1874.* Amended, Act XII of 1891. Supplemented, Act XXXIV of 1850.	1

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BURMA.

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1867	XXXII	*The Chief Commissioner's Powers Act.*	*Lower Burma*	*Now obsolete.*	
1875	VII	The Burma Fisheries Act, 1875.	Ditto . .	Rep. in part, *Act XII of 1876.* Rep. in part and amended, Act XIII of 1898.	5
1876	II	The Burma Land and Revenue Act, 1876. . .	Ditto . .	Rep. in part, Act II of 1880; Act XII of 1882. Rep. in part and amended, Act XIII of 1898.	9

[1] This short title was given by the Repealing and Amending Act, 1897 (V of 1897), *see* General Acts, Vol. VI, p. 293.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BURMA—*contd.*

1	2	3	4	5	6
Year	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both	Whether repealed or otherwise affected by legislation.	Page.
1877	XIII	The Burma Embankment Act, 1877.	*Lower Burma*	Rep. in part, Act XI of 1889. Amended, Act XIII of 1898.	31
1879	IX	The Burma Coast Lights Act, 1879.	Ditto . .	Rep in part, Act X of 1889. Amended, Act XIII of 1898.	34
	XIV	The Hackney Carriage Act, 1879.	Lower and Upper Burma.	Rep. in part, Act XIII of 1889.	39
	XV	The Rangoon Port Commissioners' Act, 1879.	Lower Burma	Rep in part and amended, Act XIII of 1898. Amended, Act XI of 1889; Act III of 1892.	43
1880	II	The Burma District Cesses and Rural Police Act, 1880.	Ditto . .	Rep. in part and amended (locally), Act III of 1889, ss. 1 (6) and 4 Amended, Act XI of 1889, s. 100; Act XIII of 1898.	68
	V	The Burma Boundaries Act, 1880.	Lower and Upper Burma.	Rep. in part and amended, Act II of 1895.	75
	XIII	The Vaccination Act, 1880.	Ditto . .		85
1881	II	The Pegu and Sittang Canal Act, 1881.	Lower Burma	Rep. in part, Act XII of 1891. Amended, Act XIII of 1898.	93
	XIX	The Burma Forest Act, 1881.	Ditto . .	Rep. in part and amended, Act V of 1890; Act XII of 1891. Amended, Act XIII of 1898.	99

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BURMA—*contd.*

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both	Whether repealed or otherwise affected by legislation.	Page
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	Lower and Upper Burma.	Amended, Act I of 1885; Act XIII of 1898.	128
1883	VIII	The Little Cocos and Preparis Islands Laws Act, 1883.	Lower Burma.	Rep. in part, Act XII of 1891.	136
	XII	The British Burma[1] Pilots Act, 1883.	Ditto . .		137
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1884	XIX	The Rangoon Water-works Act, 1884.	Ditto . .	Rep. in part, Act XII of 1891.	158
1885	I	The Burma Steam-boilers and Prime-movers Act, 1885.	Lower and Upper Burma.		172
1887	XV	The Burma Military Police Act, 1887.	Ditto . .	Rep. in part and amended, Act XIII of 1898.	173
1888	XVIII	The Burma Financial Commissioner's Act, 1888.[2]	Ditto . .	Rep. in part, Act XII of 1896; Act XIII of 1898; Act II of 1899.	180
1889	III	The Lower Burma Village Act, 1889.	Lower Burma.	Amended. Act XI of 1894; Act XVIII of 1895; Act XIII of 1898.	182

[1] Now read "Lower Burma," *see* Burma Laws Act, 1898 (XIII of 1898), s. 7, *infra*, p. 260.
[2] This short title was given by the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260.

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BURMA—*concld.*

1	3	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1889	XI	The Lower Burma Courts Act, 1889.	Lower Burma, and ss. 46 and 47 in Upper Burma.	Rep. in part, Act VIII of 1890; Act XVI of 1891; Act V of 1898; Act XIII of 1898. Rep. in part and amended, Act XII of 1891.	191
1890	V	The Forest Act, 1890, ss. 1, 15—22.	Lower Burma.	Rep. in part, Act XII of 1891.	230
1892	III	The Rangoon Port Commissioners' Act (1879) Amendment Act, 1892.[1]	Lower Burma (Rangoon).		232
	IX	The Lower Burma Towns Act, 1892.	Ditto . .	Amended, Act XVIII of 1895.	232
1894	XI	The Lower Burma Village Act (1889) Amendment Act, 1894.[1]	Ditto . .		236
1895	II	The Burma Boundaries Act Amendment Act, 1895.	Lower and Upper Burma.	Rep. in part, Act XIII of 1898.	236
	XI	The Pegu and Tenasserim Validation Act, 1895.[1]	Lower Burma.		237
	XVIII	The Lower Burma Villages and Towns Law Amendment Act, 1895.[1]	Ditto . .		238
1896	XII	The Excise Act, 1896.	Lower and Upper Burma.	Rep. in part, Act XIII of 1898.	239
1898	XIII	The Burma Laws Act, 1898.	Ditto . .		260

[1] This short title was given by the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260.

PART III.—REGULATIONS MADE FOR BURMA UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3).

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1874	VIII	The Arakan Hills Civil Justice Regulation, 1874.	Lower Burma	Amended, Reg. V of 1876. Reg. II of 1892.	292
	IX	The Arakan Hill District Laws Regulation, 1874.	Ditto . .	Rep. in part, Act XI of 1878; Act XIX of 1881; Act X of 1882; Act VIII of 1890; Act IX of 1894. Rep. in part and amended. Act XI of 1889; Act XIII of 1898; Amended, Reg. VIII of 1893.	307
1876	V	The Arakan Hills Civil Justice Amendment Regulation, 1876.	Ditto		314
1887	V	The Upper Burma Municipal Regulation, 1887.	Upper Burma.	Rep. in part and amended, Act XIII of 1898.	315
	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	Ditto . .	Rep. in part and amended, Act XIII of 1898.	322
	X	The Upper Burma Stamps and Limitation Regulation, 1887.	Ditto . .	Rep. in part, Reg. I of 1891; Reg. I of 1896; Act XIII of 1898.	324
	XII	The Upper Burma Ruby Regulation, 1887.	Ditto . .	Rep. in part and amended, Act XIII of 1898. Amended, Reg. V of 1891; Reg. I of 1897.	325

PART III.—REGULATIONS MADE FOR BURMA UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3)—*contd.*

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1887	XIV	The Upper Burma Village Regulation, 1887.	Upper Burma.	Rep. in part and amended, Act XIII of 1898; Reg. IV of 1896. Amended, Reg. I of 1891; Reg. IV of 1894.	332
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	Ditto . .	Rep. in part, Reg. IV of 1896. Rep. in part and amended, Act XIII of 1898. Amended, Reg. III of 1894; Reg. II of 1895; Reg. III of 1898.	341
1891	I	The Upper Burma Village Regulation (1887) Amendment Regulation, 1891.[1]	Ditto . .	Rep. in part, Reg. I of 1896.	367
	V	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891.[1]	Ditto . .		368
	VI	The Upper Burma Towns Regulation, 1891.	Ditto . .	Rep. in part and amended, Act XIII of 1898. Amended, Reg. IV of 1896; Reg. II of 1899.	368
1892	II	The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation (1892).[1]	Lower Burma		372
	V	The Upper Burma Criminal Justice, 1892.	Upper Burma	Rep. in part and amended, Act XIII of 1898.	372
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[1] This short title was given by the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 200.

PART III.—REGULATIONS MADE FOR BURMA UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3)—*contd.*

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1894	III	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894.	Upper Burma		379
	IV	The Upper Burma Village Regulation (1887) Amendment Regulation, 1894.	Ditto . .		379
1895	I	The Kachin Hill-tribes Regulation, 1895.	Ditto . .	Amended, Reg. I of 1898.	379
	II	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895 [1]	Ditto . .		393
1896	I	The Upper Burma Civil Court Regulation, 1896.	Ditto . .	Rep. in part and amended, Act XIII of 1898.	393
	II	The Burma Frontier Tribes Regulation, 1896.	Lower and Upper Burma.		406
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	V	The Chin Hills Regulation, 1896.	Ditto . .		408
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[1] This short title was given by the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260.

PART III.—REGULATIONS MADE FOR BURMA UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3)—*concld.*

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1898	I	The Kachin Hill Tribes Regulation (1895) Amendment Regulation, 1898.	Upper Burma		425
	III	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898.	Ditto . .		426
	V	The Upper Burma Forest Regulation, 1898.	Ditto . .		427
1899	II	The Upper Burma Towns Regulation, 1899.	Ditto .		455

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1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1898	I	The Burma General Clauses Act, 1898.	Lower and Upper Burma.		456
	II	The Burma Ferries Act, 1898.	Ditto . .	Amended, Burma Act II of 1899.	467
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	IV	The Lower Burma Town and Village Lands Act, 1898.	Lower Burma		558

PART IV.—ACTS OF THE LIEUTENANT-GOVERNOR OF BURMA IN COUNCIL—*contd.*

1	2	3	4	5	6
Year.	No.	Short title.	Whether in force in Lower Burma, Upper Burma, or both.	Whether repealed or otherwise affected by legislation.	Page.
1899	I	The Burma Gambling Act, 1899.	Lower and Upper Burma		573
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	III	The Burma Military Police Act Amendment Act, 1899.	Ditto . .		580
	IV	The Rangoon Police Act, 1899.	Lower Burma (Rangoon).		583

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THE BURMA CODE.

PART I.

BENGAL REGULATION IN FORCE IN BURMA.

BENGAL REGULATION III OF 1818.[1]

APPLIES TO UPPER AND LOWER BURMA.

[*7th April, 1818.*]

A Regulation for the confinement of State Prisoners.

Preamble.

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

[1] Short title, the Bengal State Prisoners Regulation, 1818, *see* the Repealing and Amending Act, 1897 (V of 1897), Sch. III, printed, General Acts, Ed. 1898, Vol. VI, p. 299.

This Regulation has been declared to extend to the Hill District of Arakan, *see* the Arakan Hill District Laws Regulation, 1874 (IX of 1874), Sch. II, *infra*, p. 314; and the unrepealed parts of it have been declared to extend *mutatis mutandis*, and from the 16th September, 1875, to have extended to Lower Burma, *see* s. 8 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260; they have also been declared in force in Upper Burma (except the Shan States), *see ibid*, s. 4 (*1*) and the First Schedule.

So much of the Regulation, as is in force in any part of Upper Burma, has been extended to the Shan States generally, *see* Notification No. 11, dated 11th July, 1895, and printed, *infra*, p. 608.

So much of the Regulation as may from time to time be in force in Upper Burma has been extended to the Kachin Hill tracts as regards hill tribes, by the Kachin Hill-Tribes Regulation, 1895 (I of 1895), printed, *infra*, p. 381.

So much of the Regulation as may from time to time be in force in Upper Burma is to be deemed applicable to the Chin Hills as regards hill tribes, *see* the Chin Hills Regulation, 1896 (V of 1896), s. 3, printed, *infra*, p. 410.

S. 491 of the Code of Criminal Procedure, 1898 (Act V of 1898), does not apply to persons detained under this Regulation, *see* last clause of that section, printed, General Acts, Vol. VI.

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindárs, taluqdárs and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceeding for placing persons under restraint as State prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be in the following form:—

"To the[1] [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*], you are hereby required and commanded, in pursuance of that determination, to receive the person abovenamed into your custody, and to deal with him in

[1] As to whom warrants may be directed, *see* the State Prisoners Act, 1850 (XXXIV of 1850), s. 1, printed, General Acts, Vol. I, p. 73.

conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council.

"*A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.[1]

Officers having custody of State prisoners to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila or City Magistrate, the Judges[2] * * are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of public officer not being Zila or City Magistrate by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila or City Magistrate, the Governor General in Council will instruct either the Zila or City Magistrate, or the Judge[2] * * or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement

[1] For power to remove a State prisoner to any other place of confinement in British India *see* the State Prisoners Act, 1858 (III of 1858), s. 5, printed, General Acts, Vol. I, p. 142. S. 5 of Act III of 1858 was declared to be in force throughout the whole of British India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (XV of 1874), s. 3; in the Hill District of Arakan, by the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3, *infra*, p. 307, and in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), First Schedule, printed, *infra*, p. 266; in the Shan States, by the Shan States Laws and Criminal Justice Order, 1895, printed, *infra*, p. 606.

[2] The words "of circuit" were repealed by the Repealing Act, 1874 (XVI of 1874), s. 1.

to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Application of sections 3 to 7 to persons now confined as State prisoners.*] *Repealed by the Repealing Act, 1874 (XVI of 1874), s. 1.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindár, jágirdár, taluqdár or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [1] * * * * [and][2] to the Sadr Diwáni Adálat and Nizámat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collection shall be made and adjudged on the same principles as those of other estates held under khás management.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Release of estate from attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

[1] The words "to the Provincial Court of Appeal and Circuit, and" were repealed by the Repealing Act, 1874 (XVI of 1874), s. 1.

[2] The word "and" was inserted by the Repealing and Amending Act, 1891 (XII of 1891), printed General Acts, Vol. VI, p. 32.

PART II.

LOCAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL IN FORCE IN BURMA.

ACT No. VII of 1875.[1]

APPLIES TO LOWER BURMA ONLY.

[*23rd February, 1875.*]

An Act to regulate Fisheries in British Burma.[2]

Preamble.

WHEREAS the exclusive right of fishing in British Burma[2] in such fisheries as are hereinafter mentioned belongs by the custom of the country to the Government:

And whereas it is expedient to provide for the protection of this right, and for conceding the enjoyment of it to the public or to individuals gratuitously or in consideration of fees or rent, and subject to suitable restrictions and conditions;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1874, Pt. V, p. 53; for Proceedings in Council, *see ibid*, 1874, Supplement, p. 101; *ibid*, 1875, Supplement, pp. 235 and 313.

The Act has been declared in force in the Arakan Hill District, by the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3, as amended by the Burma Laws Act, 1898 (XIII of 1898), the Third Schedule, printed, *infra*, p. 278.

[2] For "British Burma," read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 260.

The officer designated Chief Commissioner in this Act is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261, and all the powers and duties conferred and imposed on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor from 1st May, 1897, *see* s. 15 of Act XIII of 1898.

It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called the Burma Fisheries Act, 1875.

Local extent.

It extends to the territories for the time being under the administration of the Chief Commissioner[1] of British Burma.[2]

[*Commencement.*] *Repealed by the Repealing Act, 1876 (XII of 1876), s. 1.*

Interpretation-clause.

2. In this Act—

"Fish."

"fish" includes also shell-fish:

"Fishery."

"fishery" means any collection of water, running or still, tidal or non-tidal, which is itself of a permanent nature, or is connected with some waters of a permanent nature, and in which fish or turtle may be found. It includes the sea:

"To fish."

"to fish" includes to catch turtle or collect their eggs: * *[3]

"Fixed engine."

"fixed engine" means any fixed implement or engine for catching or for facilitating the catching of fish, and includes a net secured by anchors, or otherwise temporarily fixed to the soil;

[4] ["fixed obstruction" includes a weir, lock, bank or dam, or any fixed engine which impedes navigation, interferes with the flow of water, or prevents fish from proceeding up or down stream; and

"implement" includes any implement or engine for catching fish other than a fixed obstruction.]

II.—Rights of Fishery.

Right of fishery.

3. No right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either previously to the passing of this Act or subsequently thereto, except in one of the modes hereinafter described:

Angling.

But nothing herein contained shall be held, nor shall the giving of any grant, lease, license or permission under this Act be held, to prevent the public from angling with a rod and line only in any fishery:

Proviso.

Provided that such angling may, in any case, with the previous sanction

[1] Read now "Lieutenant-Governor"—*see* note to preamble, *supra*.

[2] Read now "Lower Burma" for "British Burma"—*see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898). *Infra*, p. 260.

[3] The word "and" was repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule.

[4] These two paragraphs were inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

of the Chief Commissioner,[1] be forbidden by a proclamation issued by the Deputy Commissioner of the district in which such fishery is situate for such time as may be fixed by such proclamation :

And nothing herein contained shall prejudice or derogate from any express grant of a right to fish heretofore made by the British Government.

Disposal of right of fishery.

4. The Deputy Commissioner of any district may, subject to such rules, conditions and restrictions as may be prescribed by the Chief Commissioner[1] in this behalf, dispose of the right of fishing in any fishery situate within his district, or specially placed under his charge by the Chief Commissioner,[1] in any one of the following modes, that is to say :—

(*a*) he may declare such fishery open to the public, or to the inhabitants of any town or village, or to any other class of persons ;

(*b*) he may lease the exclusive right of fishing in such fishery to any person ; or

(*c*) he may, where he has not disposed of the right of fishing in any of the foregoing modes, grant licenses to any number of persons to use nets, traps and other implements for fishing in such fishery ;

and (subject as aforesaid) he may declare that any fishery shall cease to be a fishery for the purposes of this Act.

Declarations made before 1st April, 1875.

All such declarations, leases and licenses made and granted by the British Government before this Act comes into operation and then in force shall be deemed to have been respectively made and granted under this section.

Recovery of fees, rents etc.

5. All fees, rents and other moneys due to Government in respect of any lease, license or permission granted under this Act may be recovered in the manner prescribed by the law for the time being in force for the recovery of arrears of revenue.[2]

III.—Erection of Weirs.

Fixed obstructions, not to be erected without sanction of Deputy Commissioner.

6.[3] [No fixed obstruction] shall be erected, placed, maintained or used in any fishery or in waters connected with any fishery, by a grantee or lessee, or by any other person whomsoever, without a special permission in that behalf under the hand of the Deputy Commissioner of the district in which such fishery is situate.

[1] *See* foot-note 1 on preceding page.

[2] *See* the Burma Land and Revenue Act, 1876 (II of 1876), ss. 45-51, *infra*, pp. 26-23.

[3] These words were substituted for the words "no weir or other fixed obstruction, and no fixed engine tending to hinder the movements of fish, or to interfere with the flow of the water or to impede navigation," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

IV.—Penalties.

Penalties.

7. Any person who commits any of the following offences, namely :—

(*a*) fishes in any fishery not having a right to fish therein,

(*b*) erects, places, maintains or uses any fixed obstruction * * *[1] in a fishery, or in waters connected therewith, without being specially permitted to do so under section 6,

(*c*) puts or knowingly permits to be put, or causes or knowingly permits to flow, into any fishery, any solid or liquid matter to such an extent as to poison or kill, or to cause the water to poison or kill, fish,

(*d*) interferes with, or makes any demand in consideration of, the lawful use of the water of any fishery for purposes unconnected with the taking of fish,

shall be punished, for a first offence, with imprisonment for a term not exceeding three months, or a fine not exceeding two hundred rupees, or both ; and, for a second offence, with imprisonment for a term not exceeding six months, or a fine not exceeding five hundred rupees, or both.

Forfeiture of obstructions.

And any obstruction * * *[2] erected, placed, maintained or used in contravention of section 6, and any fish taken by means of such obstruction * * *[2] or otherwise in contravention of this Act, or of any rules made hereunder and for the time being in force, shall be forfeited.

Removal of obstructions

And such obstruction * * *[2] may be removed or taken possession of by the Deputy Commissioner or such person as he empowers in this behalf.

And the expense (if any) of such removal may be recovered from the person erecting, placing, maintaining or using the obstruction * * *[2] so removed, as if it was an arrear of revenue.[3]

V.—Subsidiary Rules.

Power to make rules.

8.[4] The Chief Commissioner [5] may, from time to time with the previous sanction of the Governor General in Council, make rules [4] for all or any of the following purposes :—

(*a*) for the survey and demarcation of the limits of fisheries ;

[1] The words " or fixed engine " were repealed by the Burma Laws Act, 1898 (XIII of 1898) *see* the Fifth Schedule, printed, *infra*, p. 286.

[2] The words " or engin e " were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p 286.

[3] *See* the Burma Land and Revenue Act, 1876 (II of 1876), ss. 45-51, *infra*, pp. 26-28.

[4] For General Rules under this section *see* Burma Gazette, 1896, Pt. I, pp. 298, 599; *ibid*, 1899 Pt. IV, p. 204. For rules regulating, pearl fisheries in Lower Burma, *see* Burma Gazette, 1898, Pt. I, p. 262.

[5] *See* foot-note 1 on page 6.

(*b*) for determining in which of the modes mentioned in section 4 the right to fish in each fishery shall be disposed of;

(*c*) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or granted or let on lease to individuals;

(*d*) for fixing the rates at which, and the conditions on which, licenses to use implements for fishing may be granted;

(*e*) for settling the terms and conditions on which permission to erect, place, maintain or use fixed obstructions * * *[1] in fisheries or waters connected therewith may be granted;

(*f*) for making and maintaining free gaps in weirs;

and generally to carry out the purposes of this Act.

Penalty for breach of rules.

9. The Chief Commissioner [2] may, with the like sanction, in making any such rule, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine or both.

Publication of rules.

10. All such rules shall be published in the British Burma Gazette [3] and shall thereupon have the force of law.

THE BURMA LAND AND REVENUE ACT, 1876.

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[2] *See* footnote 1 on p. 6, *supra*.

[3] Read now "Burma Gazette," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898). *Infra*, p. 260.

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APPLIES TO LOWER BURMA ONLY.

[*18th January, 1876.*]

An Act to declare the law relating to interests in land and to regulate the assessment and collection of land-revenue, capitation-tax and other taxes in British Burma.[2]

Preamble. WHEREAS it is expedient to declare the law relating to the acquisition by private persons of rights in land in the province of British Burma;[2]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1875, Pt. V, p. 60; for Proceedings in Council, *see ibid*, 1875, pp. 236 and 317.

[2] For the expressions "British Burma" and "British Burma Gazette," wherever they occur in this Act, the expressions "Lower Burma" and "Burma Gazette," respectively, should now be read, *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260.

And whereas it is expedient also to consolidate and amend the law relating to the assessment and collection of land-revenue, capitation-tax and certain other taxes in the said province;

It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called the Burma Land and Revenue Act, 1876.

Local extent. It extends to all the territories now under the administration of the Chief Commissioner[1] of British Burma except the Hill District of Arakan and except such other places as the said Chief Commissioner [1] may from time to time, by notification in the British Burma Gazette,[2] and with the previous sanction of the Governor General in Council, exempt from its operation;

Commencement. And it shall come into force on such date[3] as the Chief Commissioner,[1] with the previous sanction of the Governor General in Council, may direct by notification in the said Gazette.

Repeal. **2.** On and from the date on which this Act comes into force, Act XXXV of 1852 (*for the abolition of the Poll-tax within the towns of Akyab and Kyouk Phyoo in the province of Arakan, and for levying a tax on lands covered by dwelling-houses within those towns*), and all regulations and rules (if any) relating to any of the matters provided for by this Act, and then having the force of law, shall be repealed.

Interpretation-clause. **3.** In this Act, unless there is something repugnant in the subject or context,—

"Possession." (*a*) land is said to be in the possession of a person under this Act—

(1) when it is occupied by him, or by his servant, agent, tenant or mortgagee, or by some other person holding under him;

(2) when he, his servant, agent, tenant, mortgagee or other person holding under him has paid the revenue which fell due in respect of such land during the last preceding year of assessment as fixed under section 41;

(3) if such land, left fallow in the ordinary course of husbandry, was when last cultivated, cultivated by him, his servant, tenant,

[1] For "Chief Commissioner," read now "Lieutenant-Governor," *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. The Chief Commissioner's powers and duties are to be deemed to have been conferred and imposed upon the Lieutenant-Governor of Burma, on and from May 1st, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

[2] *See* second footnote on preceding page.

[3] Act II of 1876 came into force on 1st February, 1879, *see* Burma Gazette, 1879, Pt. II p. 29.

agent or mortgagee, or by some other person holding under him:

Provided that no person shall be deemed to be in possession merely on the grounds mentioned in the second or third clause of this definition of any land which is occupied by a person not holding under him, or of any land which he has relinquished by a notice in writing presented to a revenue-officer at such time of the year as the Chief Commissioner[1] may by rule from time to time appoint in this behalf:

(*b*) "revenue-officer" means any person whom the Chief Commissioner[1] may appoint,[2] by name or as holding an office, to do—

(1) anything required by this Act to be done by a revenue-officer;

(2) anything to be done by a Government officer under this Act or under any rule made under this Act, and for the doing of which no agency is specially provided by this Act:

(*c*) "notification" means a notification published in the British Burma Gazette.[3]

PART II.

Of Rights over Land.

Lands excluded from the operation of Part II—reserved forests: fisheries:

4. Nothing contained in this Part shall apply to the following:—

(*a*) land included in any forest constituted "a reserved forest" under the law for the time being in force:[4]

(*b*) land included in any fishery demarcated under the Burma Fisheries Act, 1875:[5] VII of 1875.

public roads, etc.: towns: dwelling-places: cantonments:

(*c*) the soil of any public road, canal, drain or embankment:

(*d*) land included within the limits of any town:

(*e*) land appropriated to the dwelling-places of any town or village

(*f*) land included in any military cantonment:

civil stations: lands of religious and educational institutions.

(*g*) land included in any civil station:

(*h*) land belonging when this Act comes into force to the site of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purposes of such monastery, pagoda, building or school.

[1] *See* first footnote on preceding page.

[2] For classes of officers appointed under s. 3 (*b*) to do the acts required by this Act to be done by a revenue-officer, *see* Burma Gazette, 1888, Pt. I, pp. 258 and 388, *ibid*, 1890, Pt. I, p. 184, and *ibid*, 1894, Pt. I, p. 380.

[3] *See* second footnote on p. 12.

[4] *See* now the Burma Forest Act, 1881 (XIX of 1881). *Infra*, p. 103.

[5] For Act VII of 1875, *see supra*, p. 5.

Power to exclude other land.

The Chief Commissioner[1] may from time to time by notification exclude any other land from the operation of this Part.

Power to define boundaries of excluded lands.

5. When the boundaries of any lands exempt or excluded under section 4 from the operation of this Part need definition for the purposes of that section, and no other mode of defining them is provided by law, the Chief Commissioner[1] shall cause them to be defined by the revenue-officer.

If, before they are defined, any question arises as to whether any land is included within them, such question shall be decided by the revenue-officer, whose decision, subject to appeal and review as hereinafter provided, shall be final.

Rights which may be acquired over land.

6. No right of any description shall be deemed to have been or shall be acquired by any person over any land to which this Part applies, except the following :—

(*a*) rights created by any grant or lease made by or on behalf of the British Government ;

(*b*) rights acquired under sections 27 and 28 of the Indian Limitation Act, 1871 ;[2]

(*c*) rights created or originating in any of the modes hereinafter in that behalf specified ;

(*d*) rights legally derived from any right mentioned in clauses (*a*), (*b*) and (*c*) of this section.

Status of landholder how acquired.

7. Except as provided in section 22, any person having been in possession of any culturable land for twelve years continuously, and having during that period regularly paid the revenue due thereon, or held the same under an express exemption from revenue, shall be deemed to have, upon the expiration of that period, acquired the status of a landholder in respect of such land :

Provided that such status shall not be deemed to have been acquired by any possession which terminated more than twelve years prior to the date on which this Act comes into force.

Explanation 1.—When land in the possession of one person comes immediately into the possession of another, by transfer or succession, the possession is deemed to be continuous, and the latter may, in reckoning his length of possession, add the possession of the former to his own.

Explanation 2.—When any revenue has been paid in respect of any land by any person holding such land under the person in possession thereof, such

[1] *See* first note on p. 13, *supra*.

[2] The reference to ss. 27 and 28 of Act IX of 1871 should be read as referring to ss. 26 and 27 of the Indian Limitation Act, 1877 (XV of 1877). *See* s. 2.
For Act XV of 1877, *see* the revised edition as modified up to April 1st. 1899, published by the Legislative Department.

revenue shall, for the purposes of this section, be deemed to have been paid by the person so in possession.

Landholders' rights defined.

8. A landholder shall have a permanent heritable and transferable right of use and occupancy in his land, subject only—

(*a*) to the payment of all such revenue, taxes, cesses * *[1] and rates as may from time to time be imposed in respect of such land under any law for the time being in force;[2]

(*b*) to the reservation in favour of Government of all mines and mineral products, and of all buried treasure, with full liberty to work and search for the same, paying to the landholder only compensation for surface-damage as estimated by the revenue-officer.

Landholders out of possession when Act comes into force.

9. [3]*First Clause.*—Any person having acquired the status of a landholder in respect of any land before the date of this Act coming into force, and having been out of possession of such land on the said date, may, within three years from the said date or within twelve years from the date on which he was last in possession, whichever first expires, proceed to recover possession of the said land in the manner hereinafter provided, that is to say:—

(*a*) if no other person is in possession of the same, he may resume possession thereof;

(*b*) if any other person is in possession of the same, he may apply to the revenue-officer to be reinstated in possession thereof.

Landholders relinquishing possession within three years from Act coming into force.

[3]*Second Clause.*—Any person having the status of a landholder in respect of any land and being in possession of such land on the date on which this Act comes into force, and (except as provided in section 12) voluntarily relinquishing possession of such land within the three years next following such date, may, at any time before the expiry of the said period of three years, proceed to recover possession of the same in manner provided in the first clause of this section.

Forfeiture of their status by neglect to assert it.

[4]*Third Clause.*—All persons entitled to resume possession of lands or to apply to the revenue-officer under the first or second clause of this section, and neglecting to resume possession or apply in manner aforesaid within the periods limited by the said clauses respectively, shall forfeit their status as landholders in respect of such lands.

Applications by them for possession how dealt with.

10. On receiving any application under section 9, it shall be in the discretion of the revenue-officer, after such enquiry as he thinks fit to make, either to reject such application or to put the applicant in possession of the land comprised in his application.

Suits by them

Any applicant whose application is rejected under this section may, within

[1] The word "cesses" should probably have been repealed along with the word "cess" by s. 3 of the Burma District Cesses and Rural Police Act, 1880 (II of 1880), *infra*, p. 68.
[2] *See* now Act II of 1880, *infra*, p. 69.
[3] The first two clauses of s. 9 and the first two paragraphs of s. 10 are now apparently spent.
[4] The third clause of s. 9 is now apparently obsolete.

two months from the date of such rejection, institute a suit in the Civil Court to recover possession of the land comprised in his application.

on application being rejected.

[1]Any such applicant who neglects to institute such a suit within the said period of two months shall forfeit his status of landholder in respect of such land.

Forfeiture of their status by neglect to institute such suits.

11. Any landholder who, except as provided in section 12, voluntarily relinquishes the possession of any land after the expiry of three years from the date on which this Act comes into force, shall at once forfeit his status of a landholder in respect of such land.

Landholders relinquishing possession after three years from Act coming into force.

12. Whenever any person in possession of land, and claiming the status of a landholder in respect thereof, desires temporarily to relinquish the possession of the same, he may present a petition to the revenue-officer, requesting him to take over such land.

Right of landholder to make over land temporarily to revenue officer;

The revenue-officer on receipt of such petition, if it appears to him on such enquiry as he thinks fit to make that the petitioner is entitled to such status, shall cause a notice to be published in such manner as the Chief Commissioner [2] may by rule prescribe, declaring that he has taken over the land; and the land shall thereupon be at his disposal to be let on lease or otherwise dealt with, subject to the rights of any third parties over the land and to the right of the petitioner next hereinafter reserved.

and to recover possession within twelve years.

13. The petitioner may, at any time within twelve years from the date on which the land has been taken over by the revenue-officer, apply to the revenue-officer to reinstate him in possession of the same.

On receiving such application, the revenue-officer shall, in such manner as may be provided by rules made under this Act and in force for the time being, give notice of the application to any person who may be in occupation under him, and shall in due time proceed to eject him, and shall put the applicant in possession of the land:

Provided that no person shall be ejected under this section from any land which, before receiving notice from the revenue-officer of the said application such person or his predecessor in interest has in any way prepared for cultivation, until the person sought to be ejected has gathered in his crop:

Provided also that no person shall be so ejected from any land which he or his predecessor in interest has planted, drained, embanked or otherwise permanently improved, until he has been paid by the applicant the value of such improvements at the date of ejectment, such value to be determined, in case the parties differ, by order of the revenue-officer.

[1] This paragraph of s. 10 is now apparently obsolete.
[2] *See* first note on p. 13, *supra*.

Applications to recover possession by persons claiming as succeeding to the rights of the petitioner.

14. If any person applies for possession of land under section 13, alleging that he is the successor in interest of the petitioner from whom such land was taken over by the revenue-officer, the revenue-officer may, in his discretion, reject such application, or proceed thereon under section 13 as if it were an application by the said petitioner, and the person from whom such land has been taken, or any other person, may sue to establish his title to such land.

Declaration and record of original acquisition of landholder's status.

15. Any person being in possession of any land and asserting that he himself, or any other person through whom he claims, acquired the status of a landholder in respect of such land in the manner provided by section 7, may apply to the revenue-officer to record, in a register to be provided for this purpose, a declaration of such status having been so acquired. And the revenue-officer, if it appears to him after a notice of such application has been published for such period and in such manner as the Chief Commissioner [1] may by rule prescribe, and after such enquiry as the revenue-officer may think fit to make, that such status was so acquired, shall record a declaration to that effect, and furnish the applicant with a certificate of the same having been recorded.

Cancellation of such declarations and records.

16. If, within five years from the date on which a declaration has been recorded under section 15, the revenue-officer is satisfied that it is erroneous, he may cancel it:

Provided that no such declaration shall be so cancelled until a notice of the intention to cancel it has been published for such period and in such manner as the Chief Commissioner [1] may from time to time by rule direct.

Fresh declarations.

While any such declaration remains on the register uncancelled, no fresh declaration inconsistent therewith shall be recorded in such register.

Questions as to original acquisition or as to the loss of landholder's status how to be dealt with by Civil Courts.

17. Whenever a question arises in any proceeding before any Civil Court as to whether any person acquired the status of a landholder in respect of any land in the manner provided by section 7, and it appears that a declaration of the fact of such status having been acquired by him has been made under section 15 not less than five years before the commencement of such proceeding and is still uncancelled, the Court shall decide in accordance therewith.

Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or, if made that it has been cancelled,

and whenever any question arises whether the status of a landholder, having been acquired, has been subsequently lost,

the Court shall refer such question to the revenue-officer, and shall give judgment in accordance with his decision thereon:

[1] *See* first note on p. 13, *supra*.

Provided that, where any party desires to appeal from the decision of the revenue-officer on any question so referred to a revenue-officer of higher grade empowered to hear such appeal by the rules for the time being in force, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to admit of such appeal being preferred, and in the event of a decision being given in appeal different from that given by the revenue-officer to whom the question was originally referred, shall give judgment in accordance with the decision pronounced in appeal.

Power to make rules for the disposal of available lands.

18. The Chief Commissioner[1] may from time to time make rules[2] for the disposal by way of grant or otherwise of any land over which no person has a right of either of the classes specified in clauses (*a*) and (*c*) of section 6.

Such rules may provide among other matters for the following:—

(*a*) the amount or kind of interest to be created in such land, and the conditions (if any) subject to which such interest may be conferred;

(*b*) the mode in which grants and other dispositions of the land may be made;

(*c*) the total or partial exemption, either absolutely or subject to conditions, of the land from revenue for a term of years or for any life or lives or during the maintenance of any institution;

(*d*) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land by the person taking under the grant or disposition, his legal representatives or assigns.

Temporary occupation of available land.

19. The Chief Commissioner[1] may also from time to time make rules[2] to regulate the temporary occupation of such land as last aforesaid, and may empower any revenue-officer to eject any person occupying, or continuing to occupy, such land in contravention of such rules.

Allotment of grazing-grounds.

20. The Chief Commissioner[1] shall from time to time as occasion requires make rules[2] for the allotment from the land referred to in section 18 of grazing-grounds to the inhabitants of any village in the neighbourhood whom he considers to stand in need of such allotment, and for regulating and controlling the enjoyment of such grazing-grounds by persons permitted to resort thereto.

[1] *See* first note on p. 13, *supra*.

[2] For rules, for working tin deposits in Mergui and Tavoy, under this section, and for consolidated rules under this Act published under s. 61 prior to its repeal, *see* notifications noted on p. 56 of the Burma Laws List, Ed. 1997.

Allotments to toungya-cutters.

21. The Chief Commissioner[1] shall also make rules[2] from time to time and for different places as occasion requires—

for the allotment from the land referred to in section 18 for the use of tribes or families practising toungya-cultivation, of areas suitable for such cultivation of sufficient extent and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted,

and for regulating and controlling the enjoyment of land so allotted by persons permitted to resort to the same.

Bar to acquisition of rights over lands disposed of or allotted under sections 18, 20 and 21.

22. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section 18, section 20, or section 21 beyond that which is given by the rules[2] made under the said sections respectively.

PART III.

Of Revenue and Taxes.

A.—Of Land revenue.

Land liable to land-revenue-assessment.

23. All culturable land and all land which is culturable when this Act comes into force but which subsequently becomes unculturable in consequence of the erection of buildings or otherwise by the act of man,

and all land assessed to land-revenue when this Act comes into force,

shall be liable to be assessed to land-revenue in manner hereinafter mentioned.

But nothing in this section shall apply to—

(*a*) land which, when this Act comes into force, belongs to the site of any monastery, pagoda or other sacred building, or of any school, and which continues to be used for the purposes of such monastery, pagoda, building or school;

(*b*) land exempt from assessment under the express terms of any grant made by or on behalf of the British Government;

(*c*) land in respect of which a toungya-tax is imposed under section 33;

(*d*) land appropriated to the dwelling-places of any town or village and exempted[3] from the operation of the former part of this section by

[1] *See* first note on p. 13, *supra*.

[2] For general rules under the Act, *see* p. 56 of the Burma Laws List, Ed. 1897.

[3] For list of localities exempted from payment of land-revenue under this section, *see* notifications noted on p. 58 of the Burma Laws List, Ed. 1897.

order of the Chief Commissioner,[1] which order the Chief Commissioner[1] is hereby empowered to make from time to time.

Mode and amount of assessment.

24. The assessment[2] referred to in section 23 shall be either—

(*a*) by annual rates per acre or other superficial measure of the land, or

(*b*) by annual rates on trees growing on the land.

The Chief Commissioner[1] may from time to time make rules[3] for fixing such rates and determining under what circumstances each description of rate is to be imposed.

Subject to such rules, the nature and amount of such assessment shall be in the discretion of the revenue-officer :

Provided that no assessment shall be made in derogation of the terms of any grant made by or on behalf of the British Government.

Rates may be altered.

25. Subject to the rules made under section 24 and for the time being in force, and except as provided in that section and in sections 28 and 42, the rates payable in respect of any land[2] may be altered from time to time as the Chief Commissioner[1] may direct.

Right to a settlement.

26. Any person in possession of any culturable land which is liable to be assessed to land-revenue may apply to the revenue-officer to make a settlement with him of such land.

If such person appears to have a permanent heritable and transferable right of use and occupancy in the land, the revenue-officer shall offer him a settlement of the nature hereinafter described.

If such person does not appear to have such a right, it shall be in the discretion of the revenue-officer to offer or refuse such settlement.

Nature of settlement.

27. The settlement offered to the applicant may be either—

(*a*) a settlement of a single annual sum payable in respect of the whole land, or

(*b*) a settlement of certain annual rates per acre or other superficial measure of land.

In either case the settlement may provide that, for any additional land situate within certain local limits which the applicant may cultivate (not being land acquired by him by transfer or succession), he shall not be required to pay during the continuance of such settlement any revenue whatever or any revenue in excess of rates fixed thereby for such additional land.

[1] *See* first note on p 13, *supra*.

[2] For the fixing of rates of assessment in certain localities, districts, townships, circles, *kwins* and revenue paying lands, *see* notifications noted on pp. 58, 60, 62, 64 and 66 of the Burma Laws List, Ed. 1897.

[3] For an example of a rule made under this section, *see* Notification No. 248, dated July 19, 1897, Burma Gazette, 1897, Pt. I, p. 383, *see* also p. 60 of the Burma Laws List, Ed. 1897.

The Chief Commissioner[1] shall by rules[2] determine the cases in which each of the said descriptions of settlement shall be offered, and the general principles on which the amount or rate of the revenue payable thereunder shall be fixed.

Subject to such rules, the nature and stipulations of the settlement to be offered in each case shall be in the discretion of the revenue-officer.

Rights conferred by settlement.

28. When a settlement of any land offered under sections 26 and 27 has been accepted, neither the person on whose application such settlement has been made, nor any person succeeding him in possession of the land by transfer or succession, nor any person holding under him or under a person so succeeding him, shall, during the term of such settlement, be held liable to pay any revenue in respect of such land beyond that fixed by the settlement.

But no person shall be deemed to have acquired any right to or over any land, as against any other person claiming rights to or over the same land, merely on the ground that a settlement of such land has been made on his application, or on the application of some person through whom he claims.

Term of settlement.

29. The settlement shall be made for such term as the Chief Commissioner[1] may from time to time by rule direct.

The settlement of any land shall terminate at the close of any year of assessment prescribed under section 41, if the person in possession of such land, and entitled under section 28 to the benefit of such settlement, not less than three months before the close of such year presents to the revenue-officer a notice in writing declaring that he desires to rescind the settlement, and at the same time pays to him all revenue payable in respect of the said land to the close of such year.

If any such person omits to give the notice and make the payment required by this section, he shall continue liable for the revenue payable from time to time under the settlement, although he may have relinquished possession of the land.

Continuance of expired settlement until new settlement is made.

30. If the term for which a settlement of any land has been made elapses before a new settlement thereof is made, any person who was entitled to the benefit of the expired settlement at the time of its expiration and continues in possession of such land, and any person holding under him or claiming through him without an interruption of possession, shall be entitled to the benefit, and be bound by the stipulations, of the expired settlement until a new settlement of such land is made :

[1] *See* first note on p. 13, *supra*.
[2] For list of such rules, *see* p. 56 *et seq.* of the Burma Laws List, Ed. 1897.

Provided that the said stipulations shall cease to be in force at the close of any year of assessment as aforesaid, if the person in possession, not less than three months before the close of such year, presents to the revenue-officer a notice in writing requiring that they should so cease.

B.—Of the five per cent. cess.

31. 32. [*A five per cent. cess to be levied—how to be applied.*] *Repealed by the Burma District Cesses and Rural Police Act, 1880 (II of 1880), s. 3.*

C.—Of the Toungya-tax.

33. The Chief Commissioner[1] may direct that, in lieu[2] of the revenue assessable on any land under toungya-cultivation, there shall be collected an annual tax, either on each male person who has completed his age of eighteen years, or on each family of persons, taking part in the cultivation of such land at any time during the year of assessment as fixed under section 41. Toungya-tax.

The rates of such tax may be fixed from time to time by the Chief Commissioner,[1] but shall not exceed the following, that is to say :—

on each male cultivator, two rupees ;

on each family of cultivators, two rupees.

D.—Of the Capitation-tax and the Land rate in lieu thereof.[3]

34. A capitation-tax shall be payable by all males between the ages of eighteen and sixty years, at such rates as the Chief Commissioner's may from time to time by notification direct :[3] Capitation-tax.

Provided that such rates shall not exceed the following, that is to say :—

on married men, five rupees a year ;

on men who have no wives, two rupees eight annas a year :

Provided also that this tax shall not be payable—

(*a*) by the residents of any of the towns mentioned in the schedule hereto annexed ;

(*b*) by the residents of any other town on which the Chief Commissioner[1] may impose a land-rate under section 35.

35. In the towns mentioned in the schedule hereto annexed, and in such other towns as the Chief Commissioner[1] may from time to time by notification Land rate in lieu of capitation-tax.

[1] *See* first note on p. 13, *supra*.

[2] For direction as to tax payable, and for rates of capitation-tax, *see* notification noted on p. 66 of the Burma Laws List, Ed. 1897.

[3] Persons liable to pay income-tax under the Indian Income-tax Act, 1886 (II of 1886), are exempted from payment of capitation-tax or land rate in lieu thereof levied under this Act, *See* s. 48 of Act II of 1886. Printed, General Acts, Vol. V, p. 31.

direct, there shall be levied, instead of the capitation-tax, an annual rate[1] upon land to be fixed from time to time by the Chief Commissioner[2] by notification, but not to exceed the following, that is to say :—

on land covered with buildings, one pie and a half per square foot;

on land not covered with buildings, three rupees per acre.

The boundaries[1] of the towns in which such rate is leviable shall be fixed from time to time, for the purposes of this section, by the Chief Commissioners by notification, and may be so fixed as to include any suburbs of such towns.

Explanation.—The rate leviable on any land under this section shall be in addition to any land-revenue payable thereon.

Exemption from capitation-tax and land-rate.

36. The Chief Commissioner[2] may, by notification,—

(*a*) exempt[3] any person or class of persons, or the residents of any particular locality, from the payment of capitation-tax;

(*b*) exempt any lands, or any class of lands, throughout the province or in any part thereof, from land-rate in lieu of capitation-tax;

(*c*) revoke any such exemption.

E.—Of Personal Liability for certain Revenue and Taxes.

Personal liability for land-revenue and land-rate in lieu of capitation-tax.

37. The amount payable on account of revenue * * * [4] or land-rate in lieu of capitation-tax on any land for any year of assessment shall be due jointly and severally from all persons who have been in possession of such land at any time during such year, and all persons who have held under them as tenants, mortgagees or conditional vendees.

Personal liability for tax on families.

38. When a tax per family of cultivators of any land is imposed, the amount due for any year of assessment from each family shall be due jointly and severally from all males of such family who at any time during such year, being then above the age of eighteen years, took any part in the cultivation of such land.

F.—Of the manufacture of Salt, and of Licenses to collect Edible Birds' nests.

Power to make rules for—licensing salt manufacture;

39. The Chief Commissioner[2] may from time to time make rules[5]—

(*a*) for granting licenses to manufacture salt;

[1] For land rate in Henzada, Rangoon, Bassein, Toungoo, Akyab, Kyaukpyu, Prome and Thayetmyo, and for the defining of the boundaries of these towns for the purposes of this section, *see* Notification No. 422, Burma Gazette, 1896, Pt. I, p. 545.

[2] *See* first note on p. 13, *supra*.

[3] For exemptions, *see* notifications noted on p. 66 of the Burma Laws List, Ed. 1897.

[4] The words "five per cent. cess" were repealed by the Burma District Cesses and Rural Police Act, 1880 (II of 1880), s. 3. Printed, *infra*, p. 70.

[5] For notification fixing the rates of salt composition duty, *see* Burma Gazette, 1895, Pt IV, p. 964.

(*b*) [*imposing salt-duty.*] *Repealed by the Indian Salt Act, 1882 (XII of 1882), s. 2.*

composition with licensees.

(*c*) for compounding [1] with any holder of a license for the payment by him of an annual sum assessed upon the plant employed by him, in lieu of the duty which would be payable by him [2] *** on the salt produced with the aid of such plant.

Penalty for manufacturing or storing salt without a license.

Any person who, without a license for the time being in force,—

(*d*) engages in the manufacture of salt;

(*e*) owns works for the manufacture of salt; or

(*f*) stores salt exceeding such quantity as the Chief Commissioner [3] may from time to time by notification fix in this behalf;

shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees, and to a further fine of ten rupees for every day after a first conviction under this section in which he continues such manufacture or storage:

And all salt in respect of which a conviction under this section has taken place, and all materials and implements used for the purpose of manufacturing such salt, shall be liable to confiscation by order of the convicting Magistrate.

Power to make rules regarding collection of edible birds' nests.

40. The Chief Commissioner [3] may from time to time make rules [4]—

(*a*) for granting licenses to * * [5] collect, or farms of the right of * * [5] collecting, * * * * * * * * * * * [5] edible birds' nests, upon land over which no person has a right of either of the classes specified in clauses (*a*) and (*c*) of section 6:

(*b*) for fixing the amount of fees to be charged in respect of such licenses or farms.

G.—Miscellaneous.

Year of assessment.

41. The year of assessment of any revenue, [6] * * rate, tax or fee leviable under this Part shall commence on such day of the calendar year as the Chief Commissioner[3] may from time to time by rule prescribe.

[1] *See* fifth note on preceding page.

[2] The words "under clause (*b*)" were repealed by the Indian Salt Act, 1882 (XII of 1882), s. 2. Printed, General Acts, Vol. IV, p. 221.

[3] *See* first note on p. 13, *supra*.

[4] *See* p. 56, *et seq* of the Burma Laws List, Ed. 1897.

[5] The words "prepare or," "preparing or" and the words "cutch, beeswax, honey, lac, cardamoms, and other forest produce or" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

[6] The word "cess" was repealed by the Burma District Cesses and Rural Police Act, 1886 (II of 1880), s. 3, printed, *infra*, p. 70.

(*Part III.—Of Revenue and Taxes. Sec. 42. Part IV.—Of Arrears and the Mode of recovering them. Secs. 43-45.*)

When increase of rates takes effect.

42. Notwithstanding anything contained in this Part, no enhancement made in any such revenue, rate, tax or fee shall take effect until the commencement of the year of assessment following that in the course of which it is made.

PART IV.

Of Arrears and the Mode of recovering them.

Revenue, etc., when due, where and to whom payable.

43. Every sum payable under this Act on account of any revenue, tax, **[1] rate, fee, duty or composition shall fall due on such date, and shall be payable at such place and to such person, as the Chief Commissioner[2] may from time to time by rule direct.

"Arrear" and "defaulter" defined.

44. When any such sum has fallen due, and a written notice of demand for it has been served on any one of the persons liable for it, or published in such manner as the Chief Commissioner[2] may from time to time by rule direct, and ten days have elapsed from the service or publication of such notice without such sum having been paid, such sum shall be deemed to be an arrear; and every person liable for it shall be deemed to be a defaulter.

Proceedings against defaulters for recovery of arrear.

45. An arrear may be realized as if it were the amount of a decree for money passed against the defaulter in favour of any revenue-officer whom the Chief Commissioner[2] may from time to time appoint[3] in this behalf by name or as holding any office.

Proceedings with a view to the realization of such arrears may be instituted by such officer before any other revenue-officer whom the Chief Commissioner[2] may from time to time appoint by name or as holding any office; and, except in so far as the Chief Commissioner[2] may otherwise by rule direct, such other officer may exercise all the powers conferred on, and shall conform to all rules of procedure prescribed for, a Court executing a decree by the Code of Civil Procedure :[4] XIV of 1882.

Provided that—

except when execution is applied for against a defaulter who has absconded, or who is reasonably believed to be about to abscond,

the officer before whom proceedings are instituted under this section shall, before issuing any process of execution against a defaulter, cause a notice to be served on him in the manner prescribed for the service of summons on defendants in civil suits, requiring him either to pay the amount of the arrear or to

[1] *See* sixth note on preceding page.

[2] *See* first note on p. 13, *supra*.

[3] With regard to the appointment of Cantonment Magistrates and tax-collectors in Lower Burma, and certain officers in various towns, to be revenue-officers for certain purposes, *see* notifications noted on p. 68 of the Burma Laws List, Ed. 1897.

[4] Printed, General Acts, Vol. IV, p. 262.

appear on a day fixed in the notice and show cause why such amount should not be realized from him.

If on the day so fixed such amount has not been paid and the defaulter does not appear, or appearing fails to show cause as aforesaid, the said officer may order the process to issue forthwith.

Proceedings against the land.

46. Instead of, or in addition to, the proceedings which may be instituted under section 45, a revenue-officer empowered in this behalf by the Chief Commissioner [1] may, when the arrear is one of land-revenue * * *[2] or land-rate in lieu of capitation-tax, proceed against the land on which such arrear has accrued as next hereinafter provided.

Where there is a permanent heritable and transferable right in such land.

47. If such officer finds on enquiry that there exists any permanent heritable and transferable right of use and occupancy in the land, he may sell by public auction such right in the whole of the land, or in such portion thereof as he may deem sufficient, for the realization of the arrear.

The proceeds of such sale shall be applied in the first place in liquidation of the arrear, and, in the event of there being any surplus remaining, the revenue-officer shall, if he is satisfied as to the right of any person claiming such surplus, pay the amount thereof to such person, and, if he is not so satisfied, shall hold the amount in deposit for the person who may ultimately succeed in due course of law in establishing his title thereto.

Title conferred by purchase at sale under section 47.

48. The purchaser at a sale held under section 47 shall be deemed to have acquired the right offered for sale, free from all encumbrances created over it and from all subordinate interests derived from it, except such as may be expressly reserved by the revenue-officer at the time of sale.

Proceedings against the land where no permanent heritable and transferable right exists.

49. If the revenue-officer proceeding against the land finds on enquiry that no permanent heritable and transferable right of use and occupancy exists therein, he may, by proclamation published on the land in such manner as the Chief Commissioner [1] from time to time by rule directs, declare that he has taken possession of such land on behalf of the Government, and may summarily eject any person found in occupation thereof.

Effect of proclamation published under section 49.

50. When a proclamation is published under section 49 in respect of any land over which any private rights of any description exist, such land shall be deemed to have been, from the date of such proclamation, vested in the Government free from all such rights as have not been expressly reserved by the terms of such proclamation.

[1] *See* first note on p. 13, *supra*.

[2] The words "five per cent. cess" were repealed by the Burma District Cesses and Rural Police Act, 1880 (II of 1880), s. 3. Printed, *infra*, p. 70.

Costs of proceedings for recovery of arrears.

51. All costs of any proceeding under this Act for the recovery of an arrear may be recovered as if they formed part of such arrear.

Proceedings against defaulting revenue-officers.

52. If a revenue-officer has reason to believe that a revenue-officer subordinate to him who has collected any sum due under this Act has absconded or is about to abscond without accounting for such sum, he may issue a warrant for the apprehension of such subordinate officer and proceed against him or cause proceedings to be instituted against him as if he were a defaulter in the amount so collected.

Proceedings against sureties of defaulters and revenue-officers.

53. Any person who has become liable for any amount as surety for a defaulter or revenue-officer may be proceeded against as if he himself were a defaulter in such amount.

PART V.

MISCELLANEOUS.

Erection and repair of boundary-marks.

54. A revenue-officer may, by a notice in writing duly served in accordance with rules to be made under this Act, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks already existing; and, if such person fails to comply with his requisition within a period to be specified in the notice, may cause the work to be done, and recover the cost thereof as if it were an arrear of revenue due in respect of the land.

Appeals.

55. Appeals shall lie from orders and decisions given under any provision of this Act, in such cases, to such officers and subject to such limitations as to time and such other conditions as the Chief Commissioner[1] may from time to time by rule determine:

Provided that decisions by an officer of a grade lower than that of a Commissioner of a division in or on the following matters, claims and questions shall not be final (namely):—

(*a*) matters disposed of by revenue-officers under section 5, section 10 and sections 12 to 17, inclusive, except orders as to the value of improvements;

(*b*) claims to occupy or resort to lands under sections 19, 20 and 21, and disputes as to the use or enjoyment of such lands between persons permitted to occupy or resort to the same;

[1] *See* third note on next page.

(*c*) questions as to whether any land or any person is liable to be assessed to any revenue, * *[1] tax or rate ;

(*d*) questions as to the mode or principle of assessment of any revenue, * *[1] tax or rate, or as to the amount assessed ;

(*e*) questions as to the right to a settlement of land-revenue, or the nature or term of the settlement to be offered ;

(*f*) questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force ;

(*g*) questions as to the liability of any person under sections 37 and 38 ;

(*h*) questions as to whether any revenue, * *[1] tax or rate is in arrear ;

(*i*) questions as to the legality of any process issued under section 45 ;

(*j*) questions as to the validity of a sale under section 47, or as to the effect of a proclamation under section 49 :

Provided also that in all cases the [2] [Financial Commissioner] shall have power to call for and review the proceedings, if he thinks fit to do so, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

Bar to jurisdiction of Civil Courts.

56. Except as hereinbefore expressly provided, no Civil Court shall exercise jurisdiction as to any of the following matters (namely) :—

(*a*) matters, claims and questions mentioned in the first proviso to section 55 ;

(*b*) claims to any office connected with the revenue-administration, or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom ;

(*c*) claims to have allotments made under section 20 or section 21 and objections to the making of such allotments ;

(*d*) claims to a remission or refund of any revenue, **[1] tax, rate, fee, duty or composition payable or paid under this Act ;

(*e*) questions as to the right to, or amount of, any compensation for improvements awardable under section 13.

Additional powers which may be

57. The Chief Commissioner[3] may, subject to any restrictions from time to time imposed by the Governor General in Council, invest any revenue-

[1] The word "cess" was repealed by the Burma District Cesses and Rural Police Act, 1880 (II of 1880), s 3, printed, *infra*, p. 70.

[2] These words were substituted for the words "Chief Commissioner," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p 278.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. All powers conferred and duties imposed on the Chief Commissioner are to be deemed to have been respectively conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898).

conferred on revenue-officers.

officer by name or as holding any office with any of the following powers, in addition to the powers directly conferred on revenue-officers by this Act, to be exercised by him in any part of British Burma[1] or in any class of cases in any such part :—

(*a*) power to enter upon any land and to survey, demarcate or make a map of the same;

(*b*) power to cut and thresh the crop on any land and weigh the grain with a view to estimating the capabilities of the soil ;

(*c*) any power exercised by a Civil Court in the trial of suits ;

(*d*) power to delegate the exercise of any power, or the performance of any duty, to a subordinate revenue-officer ;

(*e*) power to review any decision or order given by a revenue-officer which is not open to appeal, or from which, if open to appeal, no appeal has been preferred ;

(*f*) power to call for the proceedings of any subordinate revenue-officer and review any order or decision given therein which is not open to appeal, or from which, if open to appeal, no appeal has been preferred.

Additional powers to make rules.

58. In addition to the other matters for which the Chief Commissioner[2] is empowered to make rules by this Act, he may from time to time make rules—

(*a*) for the assessment and collection of all revenue[3] and of every tax, * * *[4] rate, fee, duty and composition leviable under this Act ;

(*b*) to determine the person by whom, and the time, place and manner at or in which, anything to be done under this Act, and for which no express provision is made in these respects, shall be done ; and generally to regulate the procedure of revenue-officers in all cases ;

(*c*) to provide for the investigation by the higher revenue-officers of charges of misconduct preferred against revenue-officers of lower grade ;

(*d*) to determine the fees to be charged for the service of process issued under this Act, and the mode in which such fees shall be realized ;

(*e*) to regulate the costs in all proceedings before revenue-officers, and to provide for their realization as if they were arrears of land-revenue ;

[1] Read now Lower Burma, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 4, printed, *infra*, p. 260.

[2] *See* the third note on preceding page.

[3] As to method of payment of revenue due from manufacturers of salt, *see* Notification No. 78, Burma Gazette, 1888, Pt. I, p. 274.

[4] The word "cess" was repealed by the Burma District Cesses and Rural Police Act, 1880 (II of 1880), s. 3, printed, *infra*, p. 70.

(*f*) as to making advances of money to agriculturists for the purchase of seed and cattle, for the construction, maintenance and repair of dwelling-houses and other buildings, and for other such purposes not coming within the scope of the Land Improvement Act, 1871;[1]

(*g*) for the recovery of advances made under clause (*f*) of this section from the persons to whom they were made or their legal representatives; and,

(*h*) generally, to carry out the provisions of this Act.

Penalty for breach of rules.

59. The Chief Commissioner[2] may, in making any rule under this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment, or two hundred rupees fine, or both.

Publication of rules.

60. All rules made by the Chief Commissioner[2] under this Act shall, when sanctioned by the Governor General in Council, be published in the [3]British Burma Gazette, and shall thereupon have the force of law.

Force of Rules

61. [*Consolidation and republication of rules.*] *Rep. by the Burma Laws Act, 1898 (XIII of 1898).*

THE SCHEDULE.

(*See sections 34 and 35.*)

TOWNS IN WHICH LAND-RATE IN LIEU OF CAPITATION-TAX IS LEVIED.

Rangoon.	Prome.
Bassein.	Tounghoo.
Thyetmyo.	Akyab.

Kyoukpyu.

ACT No. XIII OF 1877.[4]

APPLIES TO LOWER BURMA ONLY.

[*28th June, 1877.*]

An Act to provide for the execution of works urgently required in connection with embankments in British Burma.[5]

Preamble.

WHEREAS it is expedient to provide for the execution of works urgently

[1] Read now the Land Improvement Loans Act, 1883 (XIX of 1883), *see* s. 2 (2) of the Act, printed, General Acts, Vol. IV, p. 659.

[2] *See* the third note on p. 29, *supra*.

[3] Read now Burma Gazette, *see* s. 4 of the Burma Laws Act, 1898 (XIII of 1898). Printed, *infra*, p. 260.

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1877, Pt. V, p. 127; for Proceedings in Council, *see ibid*, Supplt., pp. 810, 1687 and 1863.

[5] For expression "British Burma" wherever it occurs in this Act, the expression "Lower Burma" should be read, *see* Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

required in connection with embankments in British Burma ;[1] It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Burma Embankment Act, 1877.

Local extent. It extends to all the territories for the time being under the administration of the Chief Commissioner[2] of British Burma ;[1]

Commencement. And it shall come into force on the passing thereof.

Interpretation-clause. **2.** In this Act—

" embankment " means any embankment constructed for the purpose of excluding, regulating or retaining water, and includes all earthen walls, dams, canals, drains, piers, groins, sluices, buildings, water-gauges, bench-marks and other works subsidiary to any such embankment ; and

" embankment-officer," used with reference to an embankment, means the officer appointed by the Chief Commissioner[2], by notification[3] in the [4]British Burma Gazette, to carry out this Act in respect of such embankment.

Circumstances under which this Act may be put in operation. **3.** Whenever the embankment-officer has reason to believe that, unless some work is quickly executed in connection with an embankment, loss of life or extensive damage to property will ensue, and that the labourers or materials required for the execution of such work cannot be obtained in the ordinary course in time to enable him to execute such work with the expedition necessary in order to avert such loss or damage, he may, by order under his hand, direct that the provisions of this Act shall be put into operation for the execution of such work ; and thereupon—

Power to impress labour. (*a*) every able-bodied person who resides in the neighbourhood of such embankment, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or any person authorized by him in this behalf may direct ; and

Power to take materials. (*b*) such officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the said neighbourhood and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, rope or other materials found in or upon such property, and use the same for the purposes of such work.

[1] *See* fifth note on preceding page.

[2] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation dated 9th April, 1897, Gazette of India, 1897, Pt. I, p 261. All powers conferred and duties imposed on the Chief Commissioner are to be deemed to have been respectively conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898).

[3] For instances of notifications making such appointments, *see* p. 76 of the Burma Laws List, Ed. 1897.

[4] Read now Burma Gazette, *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

List of labourers.

4. Subject to such rules [1] as the Local Government may from time to time with the previous sanction of the Governor General in Council, prescribe in this behalf, the Deputy Commissioner shall prepare a list of the persons liable to be required under section 3, clause (*a*), to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Payment for labour impressed and materials taken.

5. All persons labouring, or detained for the purpose of labouring, in compliance with a requisition made under section 3, or whose materials may be taken under that section, shall, as soon as may be reasonably practicable, be paid by the embankment-officer for their labour and detention, or for such materials (as the case may be), at such rates, not being less than the highest market rates for similar labour or materials for the time being prevailing in the said neighbourhood, as the Chief Commissioner [2] may from time to time by written order direct.

Compensation for damage done in taking materials.

6. When, from the removal of any trees, bamboos or other materials under section 3, any damage, over and above the price payable for such materials under section 5, results directly to any person, the embankment-officer shall pay to such person such sum as may be agreed upon as compensation for such damage or, in case of dispute as to the amount so to be paid, as the Deputy Commissioner of the district may award, subject to such rules as to appeal or otherwise as the Chief Commissioner [2] may from time to time prescribe in this behalf.

Penalties for trespass on embankments, etc.

7. Where an embankment-officer has been appointed for any embankment, any person who, without the permission of such officer,—

(*a*) grazes any cattle or allows any cattle under his charge [3][or of which he is the owner] to trespass on such embankment, or

(*b*) cuts or roots out any trees, shrubs or grass growing on such embankment, or

(*c*) obstructs any drain or sluice connected with such embankment,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.—In this section, clause (*a*), "cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

Certain persons to be deemed public servants.

8. Every embankment-officer and every person authorized by an embankment-officer to act under section 3 shall be deemed to be a "public servant" within the meaning of the Indian Penal Code [4] * * * * * * [5] of 1860.

[1] For rules under this section, *see* notification noted on p. 47 of the Burma Rules Manual Ed. 1897.

[2] *See* second note on preceding page.

[3] These words were inserted by the Burma Laws Act, 1898 (XIII of 1898), the Third Schedule, *infra*. p. 278.

[4] *See* now the revised edition as modified up to July, 1899, published by the Legislative, Department.

[5] The words and figures "and nothing in the British Burma Labour Law, 1876, s. 71, shall apply to any such officer or person acting under section three of this Act," were repealed by the Lower Burma Courts Act, 1889 (XI of 1889), s. 2 (*l*). Printed, *infra*, p. 197.

ACT No. IX OF 1879.[1]

APPLIES TO LOWER BURMA ONLY.

[*23rd May, 1879.*]

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

Preamble. WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It is hereby enacted as follows :—

Preliminary.

Short title. **1.** This Act may be called the Burma Coast-lights Act, 1879.

Commencement. It shall come into force on the first day of July, 1879.

Local extent. And it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners[2] of British Burma[3] and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

Repeal. **2.** Act No. XIII of 1867 (*to provide for the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed.

But any appointment made under the said Act shall be deemed to have been made under this Act.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Pt. V, p. 42; for Proceedings in Council, *see ibid*, 1879, Supplt., pp 17, 48 and 528.

[2] The Chief Commissioner is now Lieutenant Governor of Burma, *see* Proclamation dated 9th April, 1897, Gazette of India, 1897, Pt I, p. 261. All powers conferred and duties imposed on the Chief Commissioner are to be deemed to have been respectively conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p 265.

[3] For the expression "British Burma" wherever it occurs in this Act, the expression "Lower Burma" should now be read, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262

Interpretation clause

3. In this Act, unless there is something repugnant in the subject or context,—

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878,[1] and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port:

II of 1878.

"vessel" includes anything made for the conveyance by water of human beings or of property:

"master," when used in relation to any vessel, means any person (except a pilot or harbour-master) having, for the time being, the charge or control of such vessel:

"voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons.

4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pies per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable.

5. The said coast-light dues shall become due and payable—

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues.

6. The Governor General in Council may from time to time, by notification in the Gazette of India, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

Proviso.

Provided that such rate shall not in any case exceed the rate fixed by section 4.

[1] Printed, General Acts, Vol. III, p. 168.

Collection of dues. Voucher to be given.

7. The Customs-Collector shall collect the coast-light dues, and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

Master to report arrival.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector.

Tonnage of vessel how ascertained— if registered,

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed :—

(*a*) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841[1] or Act No. XI of 1850,[1] or under any other law for the time being in force for the registration of vessels in India the Customs-Collector may require the owner or master of such vessel or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy, the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained ; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

if not registered.

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841[1] or Act No. XI of 1850,[1] or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained ; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.

[1] Printed, General Acts, Vol. I, at pp 19 and 59, respectively.

On refusal to pay dues or expenses, the Collector may distrain and sell.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount of such dues or expenses is paid;

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including the cost of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, etc., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

Master to specify on demand voyage on which vessel is bound.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Penalty for evading payment of dues, etc.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

Magistrate to decide disputes.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising, at the place where the dispute arises, powers under the Code of Criminal Procedure,[1] not less than those

of 1882.

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

of a Magistrate of the second class. All decisions under this section shall be final.

Prosecutions under other Laws.

Saving of prosecutions under other laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: Provided that no person shall be punished twice for the same act or omission.

Statement of Receipts and Expenditure.

Statement of receipts and expenditure to be published.

16. The Governor General in Council shall, [1][publish annually] in the Gazette of India a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

17. [*Amendment of Indian Ports Act, 1875.*] *Repealed by the* [2] *Indian Ports Act, 1889* (*X of 1889*), *s. 2* (*1*).

SCHEDULE.

(*See section 4.*)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—	(*a*) from or to any port in British Burma[3]; or (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma[3],
2. A voyage to or from any port in British Burma[3]—	from or to any other port in British Burma[3],
except voyages to or from Maulmein, from or to Tavoy or Mergui, or to or from Tavoy from or to Mergui.	
3. A voyage to or from Rangoon and any port in British Burma[3] west of the longitude of Rangoon—	from or to any place east of the longitude of Mergui,
4. A voyage to or from any port in British Burma[3] other than Tavoy and Mergui—	from or to any port in the Andaman and Nicobar Islands.

[1] These words were substituted for the words "on or before the first day of October in each year, publish," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[2] Printed, General Acts, Vol V, p. 297.

[3] Read now "Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

ACT No. XIV OF 1879.[1]

APPLIES TO UPPER AND LOWER BURMA.

[*5th September, 1879.*]

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Hackney-carriage Act, 1879:

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers, which is kept, or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.[2]

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners[3] of Oudh, the Central Provinces, British Burma,[4] Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply[5] this Act to any municipality in the territories administered by them respectively.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Pt. V, p. 52; for Proceedings in Council *see ibid*, Supplt., pp. 49, 78 and 1141.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra*, p. 266.

[2] *See*, for Upper Burma, the Upper Burma Municipal Regulation, 1887 (V of 1887), s. 4, *infra*, p. 317, and for Lower Burma, *see* the Burma Municipal Act, 1898 (Burma Act III of 1898), printed, *infra*, p. 477.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. All powers conferred and duties imposed on the Chief Commissioner are to be deemed to have been respectively conferred and imposed on the Lieutenant Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

[4] For "British Burma" wherever it occurs in this Act, "Lower Burma" should now be read, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[5] For list of Municipalities to which the Act has been applied under s. 3, *see* Appendix B to the Burma Laws List, Ed. 1897.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may from time to time make rules[1] for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law[2] for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may from time to time prescribe, have the force of law :

Power of Local Government to rescind rules.

Provided that the Local Government may at any time rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it ; * * * * * *[3]

All rules made under this section, when published for such time and in such manner as the authority making the same may from time to time prescribe, shall have the force of law.

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend[4] their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

[1] For rules made under this section, *see* notifications noted on pp. 108 and 110 of the Burma Laws List, Ed. 1897.

[2] *See* for Lower Burma, the Burma Municipal Act, 1898 (Burma Act III of 1898), s. 30, *infra*, p. 496, and for Upper Burma, the Upper Burma Municipal Regulation, 1887 (V of 1887), ss. 11 and 12, *infra*, p. 319.

[3] The words "and the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned" were repealed by the Cantonments Act, 1889 (XIII of 1889), printed, General Acts, Vol. V, p 335.

[4] For notifications extending the operation of rules made under this Act, *see* p. 110 of the Burma Laws List, Ed. 1897.

6. The rules to be made under section 3 or section 4 may, among other matters,— What rules under sections 3 and 4 may provide for.

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*) prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person

authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited, respectively, to the municipal fund, and, in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine. [1]

The decision of any Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or Bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or Bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

[1] *See* the General Clauses Act, 1897 (X of 1897), s. 25, printed, General Acts, Vol. VI, p. 316.

THE RANGOON PORT COMMISSIONERS ACT, 1879.

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ACT No. XV OF 1879.[1]

APPLIES TO LOWER BURMA ONLY.

[*12th September, 1879.*]

An Act to appoint Commissioners for the Port of Rangoon.

WHEREAS it is expedient to provide for the management of the affairs of Preamble.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Pt. V, p. 3; for discussions in Council, *see ibid*, 1878, Supplt., p. 1853; and *ibid*, Supplt., 1879, pp. 15 and 1173.

the port of Rangoon, and for that purpose to appoint Commissioners; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Rangoon Port Commissioners Act, 1879 :

Commencement.

and it shall come into force on such date as the Local Government may notify in the local official Gazette.[1]

[2] [Nothing herein contained shall affect the powers conferred on the Local Government under the Indian Ports Act, 1889,[3] s. 36, sub-section (5).]

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

" port " means the port of Rangoon as defined for the purposes of this Act :[4]

" river " means any flowing water within a radius of eight statute miles from Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark :

" high-water mark " means a line drawn through the highest points reached by ordinary spring-tides at any season of the year :

" low-water mark " means the lowest point reached by ordinary ebb spring-tides at any season of the year :

" vessel " includes anything made for the conveyance by water of human beings or of property :

" master, " when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel :

" pilot " means a person for the time being authorized by the Local Government to pilot vessels :

" owner " includes also any agent to whom a vessel is consigned :

" land " includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth ; and

" Commissioners " means the Commissioners appointed under this Act.

Power to define and alter limits of port.

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the

[1] Act XV of 1879 came into force on the 1st January, 1880, *see* Burma Gazette, 1879, Pt. II, p. 283.

[2] These words were substituted for the words " nothing herein contained shall affect the powers conferred on the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[3] Printed General Acts, Vol. V, p. 297.

[4] For limits of the port of Rangoon as defined under s. 3, *see* Burma Gazette, 22nd December, 1888, Pt. I, p. 591.

limits of the port for the purposes of this Act, and may, from time to time, with the like sanction, and by a like notification, alter such limits.[1]

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

OF THE APPOINTMENT AND REMOVAL OF THE COMMISSIONERS.

Appointment of Commissioners.

4. The Local Government may, from time to time, appoint persons,[2] either by name or by virtue of their office, to be Commissioners for the port of Rangoon :

Provided that—

(*a*) the number of such Commissioners holding office at one and the same time shall not be more than twelve or less than nine :

(*b*) the number of such Commissioners who are persons holding salaried offices under Government shall not be—

(i) less than four or more than six when the total number of Commissioners is eleven or twelve ;

(ii) less than three or more than five when the total number of Commissioners is nine or ten.

Tenure of office.

5.[3] (*1*) If a Commissioner be appointed by virtue of his office, the person for the time being holding the office shall be a Commissioner until the Local Government shall otherwise direct.

(*2*) Commissioners appointed[4] by name shall hold office for two years, and may thereafter be re-appointed ; but the Local Government may at any time accept the resignation of any such Commissioner.

[1] *See* fourth note on preceding page.

[2] For the appointment of the Manager, Burma State Railway, as a Commissioner *ex officio*, *see* Notification No. 15 Burma Gazette, 1896, Pt. I, p. 282.

[3] This section was substituted for the original section by Act III of 1892, s. 1. Printed *infra*, p. 232. The wording of the original section was as follows :—" Commissioners shall hold office for two years and may thereafter be re-appointed ; but the Local Government may at any time accept the resignation of any Commissioner."

[4] For instance of re-appointment, *see* Notification No. 4, Burma Gazette, 1892, Pt. I, p. 58.

Removal of Commissioners.

6. Notwithstanding anything in sections 4 and 5, the Local Government may,—

(*a*) with the previous sanction of the Governor General in Council, by written order direct that any Commissioner therein named shall cease from a specified date to be a Commissioner;

(*b*) by written order direct that any Commissioner therein named who, without the written consent of the Local Government, absents himself from six consecutive meetings of the Commissioners shall cease to be a Commissioner:

and the Commissioner so named shall cease to be a Commissioner accordingly.

Chairman and Vice-Chairman.

7. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-Chairman, and cancel such appointment. Such Chairman and Vice-Chairman, respectively, shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appointments, etc., to be notified.

8. Every appointment and removal from office made and resignation accepted under sections 4, 5, 6 and 7 shall be notified in the local official Gazette.

CHAPTER III.

Powers and Duties of Commissioners.

Administration vests in Commissioners.

9. Subject to the powers conferred on, and reserved to, the Governor General in Council and the Local Government, respectively, by this Act or any other enactment for the time being in force, the execution and administration of the powers and trusts created and declared by this Act shall be vested in the Commissioners.

Power to hold property.

10. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immoveable property within or without the limits of the port; and with the same sanction may lease, mortgage, sell or exchange such property.

Transfer of Government property to Commissioners.

11. The property specified in Schedule A hereto annexed shall be vested in the Commissioners:

Provided that—

(*a*) no buildings or other permanent structures shall be erected thereon except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(*b*) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local Government subsequently to the date on which this Act comes into force;

(*c*) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

Compensation to municipality for loss of income.

12. As compensation for loss of income heretofore derived from any source of revenue transferred from the municipality of Rangoon to the Commissioners, the Local Government may assign annually to the said municipality, from the money received by the Commissioners, such sum, not exceeding the average of such income during the five years next preceding the date on which this Act comes into force, as the Local Government thinks fit.

Acquisition of land.

13. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870 [1]; and, on payment by the Commissioners of the compensation awarded under that Act, the land shall vest in the Commissioners.

X of 1870.

Property to be in trust.

14. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, shall be held and applied by them in trust for the purposes of this Act.

Works to be constructed.

15. The works to be constructed and carried out by the Commissioners may include the following:—

(*a*) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(*b*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandise landed or to be shipped;

(*c*) laying down moorings and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;

(*d*) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(*e*) the construction and application of dredges and other machines for

[1] *See* now the Land Acquisition Act, 1894 (1 of 1894), printed, General Acts, Vol. VI, p. 100.

cleaning, deepening and improving the bed of the river within the limits of the port;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon, the river or the port;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act;

(*h*) all such other works and appliances as may, in the opinion of the Commissioners, be necessary for carrying out the provisions of this Act.

Power to make port-rules.

16. With the previous sanction of the Local Government, the Commissioners may from time to time make rules[1] consistent with this Act and with the Indian Ports Act, 1875,[2] for any of the following purposes (that is to say) :— XII of 1875.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of the Commissioners, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for otherwise carrying out the purposes of this Act.

Such rules, when sanctioned by the Local Government, shall be published in the local official Gazette, and shall thereupon have the force of law.

Control of

17. Within the limits of the port, pilots in charge of vessels shall obey

[1] For rules made by the Commissioners under this Act, *see* the notifications noted on p. 11 of the Burma Laws List, Ed. 1897.

[2] *See* now the Indian Ports Act, 1889 (X of 1889), printed, General Acts, Vol. V, p. 297.

all lawful orders issued to them by the Commissioners in respect to such vessels. pilots within the port.

18. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public shall be permitted to embark and land free of charge. Free public landing-places.

19. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same : Removal of bathing and landing places.

Provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places (if any) as the Local Government may direct.

20. For the expeditious and convenient shipment and landing of goods in and from sea-going vessels within the port, and for the storing of such goods, the Commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged: Appliances for shipping, etc., for sea-going vessels.

Provided that—

(*a*) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package ;

(*b*) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

21. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping or for landing or for shipping goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare[1] that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels. Sea-going vessels compelled to use wharves, etc.

[1] For instance of declaration, *see* Notification No. 8, Burma Gazette, January, 1880, Pt. II, p. 23.

From and after such publication the Commissioners may, from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accommodation sufficient, all sea-going vessels compelled to use wharves, etc.

22. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette direct that no goods shall be landed or shipped from or in any sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Inland vessels compelled to use wharves, etc.

23. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare [1] that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels, and that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel while within such limits to anchor, fasten or lay within fifty yards of low-water mark without the consent of the Commissioners.

If after such publication any such vessel, while within such limits, so anchors, fastens or lays, the Commissioners may cause the same to be removed out of the said limits.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke any such order.

Power to order removal of vessels from wharves, etc.

24. The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the Commissioners may charge in respect of such vessel such

[1] *See* note on preceding page.

sum as they think fit not exceeding one hundred rupees for each day of twenty-four hours or portion of such day after the expiry of such thirty-six hours during which such vessel remains at such wharf, quay, stage, jetty or pier.

Power to exempt from obligation to use wharves, etc.

25. Notwithstanding anything contained in sections 21, 22 and 23, the Local Government may, by notification in the local official Gazette, from time to time permit certain specified vessels [1] or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, [2] at such part of the port, in such manner, during such period, subject to such payments and on such conditions as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also, by like notification, cancel or modify any such notification.

Discharge of liability on goods landed.

26. Whenever any goods are landed by the Commissioners from any vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule B hereto annexed, and may in any such receipt include all goods landed from such vessel during one day. No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Wharves, etc., to be appointed under Customs Acts.

27. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of customs as the Local Government approves of or appoints in that behalf.

Dues at customs-wharves, etc.

28. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive the same.

Private.

29. Save as hereinafter provided, no person except the Commissioners shall

[1] For instance of exemption, *see* Burma Gazette, 1882, Pt. I, p. 324.

[2] For notification exempting Government military stores from section 21 of this Act, *see* Burma Gazette, 1884, Pt. I, p. 27.

wharves, etc., prohibited.

after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing.

Power to permit erection of private wharves, etc., within the port subject to conditions.

30. The Local Government may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Wharves, etc., beyond port-limits.

31. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is after the date on which this Act comes into force, without the consent in writing of the Local Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Scale of tolls and charges to be framed.

32. The Commissioners shall frame—[1]

(*a*) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring ;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings stages, jetties and piers by any such vessels, in case the Commis-

[1] For notifications prescribing the scale of tolls, etc, for the landing and shipping of goods from, or in sea-going and inland vessels, *see* p. 114 of the Burma Laws List, Ed. 1897.

sioners permit the goods to be landed or shipped by others than their own servants ; and

(*c*) a scale of charges for any services to be performed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scales shall be submitted to the Local Government and after approval or modification by the Local Government, shall be published by the Commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the Commissioners may from time to time alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

Commissioner's lien for tolls and charges.

33. For the amount of all tolls, dues, rates and charges levied under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

34. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the Commissioners, or, with the consent of the chief officer of customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of

35. Upon the production to any officer appointed by the Commissioners in

shipowner's lien for freight.

that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien :

Provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouses.

36. Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the chief officer of customs, to the public warehouses ; and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat ; and shall also publish in the local official Gazette and in two local newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear ; and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses ; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and shall be subject to the power of sale hereinafter given.

Recovery of tolls and charges by sale of goods.

37. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien for freight, primage or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent :

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period, not less than twenty-four hours after the landing of the goods, as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

Application of sale-proceeds.

38. The proceeds of every such sale shall be applied as follows :—

(*a*) in payment of the expenses of the sale ;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 33 from the priority of the lien of the Commissioners ;

(*c*) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same :

Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Commissioners why such application was not so made ; and, in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Recovery of tolls and charges by distraint of vessel.

39. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Commissioners may apply to the Collector of Customs of the port, and such Collector shall distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners is paid ;

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or

arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not to be granted till tolls, etc., are paid.

40. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to property of Commissioners.

41. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Rangoon may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Commissioners out of the proceeds of the distress:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service or the harbour-master or master-attendant's department, the case shall not be cognizable by the Magistrate under this section.

River police.

42. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of police, to be called "River Police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any

property vested in, and on any moneys paid or payable to, the Commissioners under this Act.

The river police shall be enrolled under Act No. V of 1861[1] (*for the Regulation of Police*).

43. [*Local Government may delegate powers to survey steamers.*] *Rep. by the Burma Laws Act, 1898 (XIII of 1898).*

CHAPTER IV.

OF THE GENERAL CONTROL OF GOVERNMENT.

Commissioners' acts subject to approval

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government; and the Local Government may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act.

Control over works and expenditure.

45. The Local Government may from time to time make rules consistent with this Act as to the cost and class of works which the Commissioners may execute, and the objects to which the receipts of the Commissioners shall be applied.

Local Government may order survey.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Governor General in Council may revoke powers of Commissioners.

48. If at any time the Governor General in Council is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Governor General in Council may, by notification in the Gazette of India, to be republished in the local official Gazette, give notice that unless within six months the Commissioners take measures to the satisfaction of the Governor General in Council for properly accomplishing such purposes, the powers by

[1] Printed, General Acts, Vol. I, p. 379.

this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Governor General in Council may, if no such measures to his satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may direct the Local Government to assume such powers; and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

CHAPTER V.

OF SUITS BY AND AGAINST THE COMMISSIONERS.

Chairman or Vice-chairman to sue.

49. The Commissioners shall sue and be sued in the name of their Chairman or of their Vice-chairman.

Commissioners not personally liable.

50. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commissioners liable for breach of trust.

51. Every Commissioner shall be liable for any misapplication of money entrusted to the Commissioners to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation of suits.

52. No suit shall be brought against the Commissioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall dismiss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Indemnity to Commissioners for acts of harbour-master, etc.

53. The Commissioners shall not be answerable for any act or default of any master-attendant or harbour-master, or of any pilot, or of any deputy or assistant of any of the officers abovementioned, or of any person acting under the authority or direction of any such officer or assistant, done within the

limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

OF MEETINGS, ESTABLISHMENT, CONTRACTS AND THE GENERAL CONDUCT OF BUSINESS.

A Commissioner may be secretary.

54. The Commissioners may, if they think fit, elect one of their number to be Secretary to the Commissioners.

Seal and place of business.

55. The Commissioners shall have a common seal inscribed "Port Commissioners, Rangoon," and an office where the Commissioners shall meet for the transaction of business.

Monthly meetings and remuneration for attendance.

56. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Commissioners shall, subject to such conditions as the Local Government may from time to time prescribe, receive such fees as the Local Government may from time to time direct:

[1] * * * * * * * * *

Chairman and Vice-chairman to attend.

57. The Chairman and Vice-chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary and Special meetings.

58. The Chairman, or, in the event of his illness or absence from Rangoon, the Vice-chairman, may, whenever he thinks fit, and shall upon a requisition made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings; all other meetings are ordinary meetings.

Notice of meetings.

59. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of business at meetings.

60. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(*a*) the Chairman, or, in his absence, the Vice-chairman, shall be Pre-

[1] The words "Provided that such fees shall not be given for attendance at such meetings oftener than once a month" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

sident; if both be absent, the Commissioners may elect one of their number to be President;

(*b*) the President may, with the consent of the meeting, adjourn the meeting from time to time;

(*c*) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called; at ordinary meetings any business may be transacted of which due notice has been given;

(*d*) the quorum necessary for the transaction of business shall be such number, not less than five, as the Commissioners may from time to time prescribe [1] [but no Commissioner who is prohibited as hereinafter provided from voting or taking part in any proceedings shall be counted in the quorum so far as regards such proceedings];

(*e*) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote; and, in case of equality of votes, the President shall have a second or casting vote: [2] [Provided that no Commissioner shall vote or take part in any proceedings relating to any loan, contract or work in which he is pecuniarily interested];

(*f*) minutes of the Proceedings at all meetings of the Commissioners shall be drawn up after each meeting and shall be signed by the President and at least one other member who was present at such meeting; a copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Secretary to the Local Government;

[3] [(*g*) all meetings of the Commissioners shall be open to the public unless the President shall in any particular case otherwise direct.]

Mode of giving effect to resolutions.

61. The Commissioners may appoint one or more of their number to carry out their resolutions, and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose.

[1] These words were added by the Rangoon Port Commissioners Act (1879) Amendment Act, 1892 (III of 1892), s. 2 (*1*), printed, *infra*, p. 232.

[2] These words were added by the Rangoon Port Commissioners Act (1879) Amendment Act, 1892 (III of 1892), s. 2 (*2*), printed, *infra*, p. 232.

[3] This clause was added by Act III of 1892, s. 2 (*3*).

Proceedings not invalidated by defect of form.

62. No Proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form.

Schedule of establishment.

63. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. The Local Government may sanction such schedule, or modify and sanction the same. Every such schedule so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than, or beyond, that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers [1][or to any officer or servant the period of whose employment shall not exceed three consecutive months at any one time, and whose salary shall not exceed one hundred rupees a month.]

Commissioners are public servants.

64. The Commissioners and the servants of the Commissioners other than artizans, porters and labourers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.[2]

XLV of 1860.

Commissioners may make bye-laws.

65. The Commissioners may from time to time make bye-laws consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters.

The making of contracts.

66. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Rangoon, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-chairman and by two other Commissioners, of

[1] These words were added by the Rangoon Port Commissioners Act (1879) Amendment Act, 1892 (III of 1892), s. 3, printed, *infra*, p. 232.

[2] *See* now the revised edition of the Act, modified up to July 1899, published by the Legislative Department.

whom one shall be an *ex-officio* Commissioner, and shall be sealed with the common seal of the Commissioners:

Provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid without the assent in writing of the Local Government.

No contract not executed as in this section provided shall be binding on the Commissioners.

Manner in which work to be sanctioned.

67. No *[1] work, the estimated cost of which exceeds five hundred rupees, shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof have been approved by the Commissioners at a meeting.

In case the estimated cost of such *[1] work exceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the local official Gazette.

And, in case the estimated cost of any such work exceed fifty thousand rupees, the Local Government shall not sanction the same until such plan and estimate have been submitted to the Governor General in Council and approved by him.

Money to be kept in Bank.

68. All moneys raised by and paid to the Commissioners under this Act shall be kept in the Bank of Bengal in Rangoon, and no disbursement of such funds, or any part thereof, shall be made—

(*a*) in excess of such sum as may in that behalf be from month to month appropriated by the Commissioners at a meeting; or

(*b*) except under the signature of the Chairman or Vice-chairman.

Submission of reports, accounts and estimates.

69. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may from time to time direct—

(*a*) statements of their receipts and disbursements under this Act;

(*b*) reports of all works executed and proceedings taken by them under this Act;

(*c*) an estimate of their probable receipts for the financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

70. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the

[1] The word "new" was repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the local official Gazette.

CHAPTER VII.

PENALTIES.

Commissioners, etc., not to be interested in contracts, etc.

[1] **71.** (*1*) Any officer or servant of the Commissioners who shall directly or indirectly lend money to the Commissioners, or become pecuniarily interested in any contract, made by or on behalf of, the Commissioners, or participate or agree to participate in any profits of any work done by order or on behalf of the Commissioners, shall forfeit his office or employment, and shall thenceforward be incapable of holding any office or employment under the Commissioners, and shall further be punishable with fine which may extend to five hundred rupees.

(*2*) Any Commissioner who, without the previous sanction, in writing of the Local Government, shall directly or indirectly lend money to the Commissioners, or become pecuniarily interested in any contract made by, or on behalf of, the Commissioners, or participate or agree to participate in any profits of any work done by order or on behalf of the Commissioners, and

any Commissioner who shall vote or take part in any proceedings relating to any loan, contract or work in which he is pecuniarily interested,

shall forfeit his office as Commissioner, and shall be incapable of re-appointment, and shall further be punishable with fine which may extend to five hundred rupees :

Provided that nothing in this section shall apply to any Commissioner or officer or servant of the Commissioners by reason only of his—

(*a*) being a shareholder in or member of any incorporated or registered company which may lend money to, or make contracts with, or do work for, or on behalf of, the Commissioners ; or

(*b*) holding one or more debentures in any loan raised by the Commissioners in open market.

Infringement of section 21, 22, 23, 25 or 30.

72. Whoever infringes any order issued under section 21, 22 or 23 or any condition prescribed under section 25 or 30 shall be punished with fine which may extend to one hundred rupees, and, if the infringement be continuing,

[1] This section was substituted for the original section by the Rangoon Port Commissioners Act (1879) Amendment Act, 1892, (III, of 1892), s. 4, printed, *infra*, p. 232.

with a further fine which may extend to one hundred rupees for every day such order is infringed.

Infringement of rules.

73. Whoever infringes any rule framed by the Commissioners under section 16 shall be liable to a fine which may extend to fifty rupees, and, if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the Commissioners.

Punishment in default of fine.

74. Whenever any person is sentenced to a fine under this Act, the convicting Court may direct that, in default of payment of the fine, such person shall suffer simple imprisonment for a term which shall not exceed the following scale :—

(*a*) two months in the case of continuing infringement of section 29 ;

(*b*) one month in the case of continuing infringement of sections 21, 22 and 23 ;

(*c*) fourteen days if the fine does not exceed fifty rupees ;

(*d*) one month if the fine does not exceed one hundred rupees ;

(*e*) two months if the fine exceeds one hundred rupees.

Prosecutions.

75. Prosecutions under this Act may be instituted by the Commissioners or any person authorized by them in this behalf and not otherwise.

CHAPTER VIII.

MISCELLANEOUS.

Saving of previous port regulations.

76. All acts done and proceedings taken by the Strand Bank Committee before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers, landing-places, tolls, charges, rates and dues within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules or regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of dues as revenue.

77. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.

SCHEDULE A.

(*Referred to in section 11.*)

I.—All the land belonging to Government between the river on the sou

and the Strand Road and the Monkey Point Battery Road on the north, but not including those roads, from Monkey Point on the east to and including the Canal on the west, except—

(*a*) the land occupied by the Municipality of Rangoon;

(*b*) the land occupied by the military authorities as an approach to Godwin's Wharf and to an extent of one hundred feet on either side thereof;

(*c*) the land occupied by the military authorities for the defences at Monkey Point;

(*d*) the land assigned for railway purposes;

(*e*) the land occupied on the east side of East Street by the Department of Public Works;

(*f*) the land occupied by the customs-officers' quarters and by the Master-Attendant's residence, office and compound.

II.—All other land belonging to Government within the limits of the present port of Rangoon lying within a line drawn at fifty yards from high-water mark, except—

(*a*) the land occupied by the Rangoon gaol sawmill;

(*b*) the land occupied as Government timber-depôts at Ahlone and Monkey Point;

(*c*) the Dalla Dockyard and the lands attached thereto.

SCHEDULE B.

(*Referred to in section 26.*)

RECEIPT FOR GOODS.

By the Port Commissioners, Rangoon.

Landed during the day of from the , by the Port Commissioners, Rangoon, the noted in the margin; contents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to be stated.*

For the Port Commissioners, Rangoon.

RANGOON:
The day of *A. B*

THE BURMA DISTRICT CESSES AND RURAL POLICE ACT, 1880.

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ACT No. II OF 1880.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*24th January, 1880.*]

An Act to amend the law relating to District Cesses and Rural Police in British Burma.[2]

Preamble.

WHEREAS it is expedient to make better provision in British Burma[2] for the maintenance of rural police and of a local postal service, the construction of works of public utility, sanitary improvement and the promotion of education;

And whereas it is also expedient to declare and amend the law relating to rural police in the said province;

It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the [3]Burma District Cesses and Rural Police Act, 1880:

Commencement.

and it shall come into force on such date as the Chief Commissioner[4] of British Burma[2] may, by notification in the local Gazette,[5] direct.

Local extent.

It extends to all the territories for the time being administered by the said Chief Commissioner[4]:

Provided that the said Chief Commissioner[4] may, from time to time, by notification in the local Gazette, exempt any portion of the said territories from its operation and cancel such exemption:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Pt V, p 830; for Proceedings in Council, *see ibid*, Supplement, p 79; and *ibid*, 1880, pp. 831 and 341.

[2] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] The Act is called "the Lower Burma District Cesses and Rural Police Act, 1880" in the Third Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 278.

[4] The officer designated "Chief Commissioner" is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; and all powers conferred and duties imposed upon the Chief Commissioner are to be deemed to have been conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra* p. .

[5] Act II of 1880 came into force on the 1st April, 1880, *see* Burma Gazette, 1880, Pt. II p. 55.

[1][Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1898, extends.] Bur. Act III of 1898.

Interpretation-clause

2. In this Act, unless there is something repugnant in the subject or context,—

"land-revenue" means revenue assessed upon land under the provisions of the Burma Land and Revenue Act, 1876[2]: and II of 1876.

"revenue-officer" means any person appointed a revenue-officer under the same Act.

Repeal.

3. The following portions of the said Burma Land and Revenue Act, 1876,[2] are repealed (namely): sections 31 and 32, in sections 37 and 46 the words "five per cent. cess," and the word "cess" wherever it occurs in the said Act; but all cesses imposed under that Act shall be deemed to have been imposed under this Act. II of 1876.

Cesses.

Cess on land.

4. On all lands assessed to land-revenue there shall be levied in addition thereto an annual cess of ten per cent. on the amount of such revenue.

Saving of existing house-tax.

5. In every town, village or hamlet in which at the date on which this Act comes into force a house-tax is levied, such tax shall continue to be levied.

Cess on houses.

6. The Chief Commissioner [3] may, from time to time, by notification in the local Gazette, direct that in any specified town,[4] village or hamlet there shall be levied from the occupier of each house an annual cess, to be fixed in manner hereinafter provided, but which shall in no case exceed two rupees:

Provided that such cess shall not be levied:—

(*a*) in any place in which the house-tax referred to in section 5 is levied, or,

(*b*) in respect of any monastery, pagoda, sacred building, Government building, public rest-house or school:

Provided also that in respect of any house occupied by a person bound to pay cess under section 4 no larger amount shall be levied under this section than will, together with the cess so payable by such person, amount to two rupees.

"House" in this section means any building used as a human dwelling or for the custody of property.

[1] This proviso was substituted for the original proviso by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278. The original proviso ran as follows: "Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1874, for the time being, extends."

[2] Printed, *supra*, p. 12.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; all powers and duties conferred and imposed on the Chief Commissioner by any enactment are to be deemed to have been conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 XIII of 1898), printed, *infra*, p. 265.

[4] For instance of notifications imposing a cess, *see* Burma Gazette, 1886, Pt. I, p. 86, and 1892, Pt. I, p. 513.

Power to abolish or exempt from cess or tax.

7. The Chief Commissioner [1] may, from time to time, by notification in the official Gazette, direct that any tax or cess levied in any place under section 5 or section 6 shall cease,[2] or that any person or class of persons shall be exempted from the whole or any specified part of such tax or cess.

Powers of Deputy Commissioner.

8. Subject to the other provisions of this Act and to any rules made hereunder and for the time being in force, the Deputy Commissioner of the district may from time to time —

(*a*) declare what shall, for the purposes of this Act, be held to be a house ;

(*b*) fix the amount of cess to be levied in respect of each house ;

(*c*) remit such cess in whole or in part.

Purposes to which funds are to be applied.

9. A separate account shall be kept for each district of all cesses and house-tax levied under this Act in such district ; and such cesses and tax shall be appropriated in each year in that district, in such proportions [3] as the Chief Commissioner[1] may from time to time direct, to all or any of the following local objects (namely) :—

(*a*) [4]the maintenance of the rural police appointed under this Act,

(*b*) the maintenance of a local postal service ;

(*c*) the construction and maintenance of district-roads and other communications and the improvement of river channels ;

(*d*) other works of public utility ;

(*e*) sanitary improvement ; and

(*f*) the promotion of education :

[5][Provided that the Local Government may at any time, for reasons to be recorded, transfer a sum of money from the accounts of any one district to the accounts of any other district.]

Time and mode of payment of cesses, etc.

10. All cesses and house-tax levied under this Act shall be payable for the year of assessment of land-revenue as fixed under the Burma Land and Revenue Act, 1876, section 41,[6] and shall be payable at the place at which, and to the person to whom the land-revenue is from time to time payable, or at such other place and to such other person as the Chief Commissioner[1] may direct.

of 1876.

[1] *See* the fourth note on p. 69, *supra*.

[2] For instance of a notification discontinuing a house-tax, *see* Burma Gazette, 1896, Pt. I, p. 602.

[3] For notification containing directions in regard to appropriations of cesses, *see* Notification No. 266, dated 31st December, 1883, printed, Burma Rules Manual, Ed. 1897, p. 58.

[4] In parts of Lower Burma to which ss. 2 to 13 of the Lower Burma Village Act, 1889 (III of 1889), are extended, the following shall be substituted for s. 9, cl. (*a*) :—

"(*a*) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, 1889," *see* s. 4 of the Act, *infra*, p. 183.

[5] This proviso was substituted for the original proviso, by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, *infra*, p. 278.

[6] Printed, *supra*, p 25.

Sums assessed on the amount of land-revenue shall fall due on the date on which the land-revenue falls due.

Sums assessed on houses shall fall due on such dates as the Chief Commissioner [1] may from time to time in that behalf direct.

Realization of cesses, etc.

11. All sums assessed under this Act on the amount of any land-revenue may be recovered as if they were part of such revenue.

All other sums payable under this Act may be recovered in the manner prescribed in sections 44 and 45 of the Burma Land and Revenue Act, 1876.[2] II of 1876.

Rural Police.

Rural police,

12.[3] The rural police shall be of two classes—

(*a*) headmen of hamlets or groups of hamlets, or of villages or towns, or sections of villages or towns, hereinafter called headmen ;

(*b*) headmen of circuits, hereinafter called goungs.

Appointment of rural police.

13.[3] Subject to the rules made under this Act and for the time being in force, the Deputy Commissioner of the district shall have power to appoint, suspend and remove headmen and goungs, and to fix the limits of the beats of headmen and the circuits of goungs :

Provided that all kyaydangyees and yazawut goungs, holding office as such in any local areas on the date on which this Act comes into force shall be deemed to be respectively headmen and goungs appointed under this Act, and such local areas shall be deemed to have been fixed as their beats and circuits respectively under this Act.

Duties of headmen.

14.[3] Every headman shall perform the following duties, namely :—

(*a*) he shall give immediate information to the goung of the circuit in which his beat is situated, or the officer in charge of the police-station appointed for his beat, of all disputes within his beat which may come to his knowledge and which are likely to lead to any riot or serious affray :

(*b*) he shall report to the goung or police-officer aforesaid the arrival in, or in the neighbourhood of, his beat of suspicious characters and of persons who have been convicted under the Indian Penal Code,[4] XLV of 1860. Chapter XII (*Of Offences relating to Coin and Government Stamps*) and Chapter XVII (*Of Offences against Property*), and the movements of all bad characters within his beat :

[1] *See* the fourth note on p. 69, *supra*.

[2] Printed, *supra*, p. 12

[3] Ss. 12 to 21 (both inclusive) are now in force only in the Salween District as ss 2 to 13 of the Lower Burma Village Act, 1889 (III of 1889), have been extended to the rest of Lower Burma, *see* s. 1 (6) of the Act, *infra*, p. 182.

[4] *See* now the revised edition of the Act, modified up to July, 1899, published by the Legislative Department.

(*c*) he shall report to the goung or police-officer aforesaid all breaches of laws and rules relating to excise and opium which occur within his beat and come to his knowledge :

(*d*) he shall to the best of his ability supply any local information which any Magistrate or revenue-officer or officer of police may require, and promptly execute all lawful orders issued to him by, or by authority of, the Deputy Commissioner :

(*e*) he shall attend the revenue-officer of the circle, so long as such officer is within his beat for the purpose of assessing or collecting land-revenue, cesses or taxes, and shall give him all available information regarding the cultivation of land and other matters relating to the revenue :

(*f*) he shall in accordance with such rules as may from time to time be made by the Chief Commissioner, [1] keep up a register of all births, marriages and deaths within his beat, and collect and register any other vital statistics which may be prescribed by such rules :

(*g*) he shall afford all assistance in his power to Government officers, and on the order of the Deputy Commissioner, to other persons, in procuring food, labour, carriage and other requisites of travel.

Duties of goungs.

15. [2] The duties of a goung in respect of his circuit shall, *mutatis mutandis*, be the same as those of a headman in respect of his beat.

Power of headmen and goungs to demand help.

16. [2] For the purpose of preventing the commission of any offence or arresting any offenders whom he is authorized to arrest, any headman or goung may require any male person between the ages of eighteen and sixty within his beat or circuit at the time to assist him in preventing the commission of such offence or in making such arrest, and in guarding and escorting the person arrested.

Obligation to render help.

Every person as aforesaid shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be bound to comply with any requisition made to him under this section.

Powers and duties of Police-officers may be conferred and imposed on headmen and goungs.

17. [2] The Chief Commissioner may, [1] from time to time, by notification in the local Gazette, make rules [3] consistent with this Act—

(*a*) conferring upon headmen and goungs any powers, protection or privileges which may be exercised or enjoyed by a police-officer under any enactment for the time being in force ;

[1] *See* the fourth note on p. 69, *supra*.

2 *See* the third note on preceding page.

[3] For rules, *see* notification on p. 58 of the Burma Rules Manual, Ed. 1897.

(*b*) imposing upon headmen and goungs any duties imposed on a police-officer by any enactment for the time being in force ; and,

(*c*) regulating the exercise, enjoyment and discharge of such powers, protection, privileges and duties by such headmen and goungs.

Penalties for breach of duty.

18.[1] Every headman or goung who—

(*a*) is guilty of cowardice or of wilful misconduct in his office, or of neglect of duty ; or

(*b*) except with the permission of the Deputy Commissioner, withdraws from the duties of his office without having given to the Deputy Commissioner at least two months' notice of his intention to withdraw from such duties ; or

(*c*) offers any unnecessary personal violence to any person in his custody

may, in addition to any other penalty to which he may be liable, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or both.

Bar of prosecution.

No complaint against a headman or goung of any act or omission punishable under this section shall be entertained by any Court unless the prosecution is instituted by order of, or under authority from, the Deputy Commissioner.

Limitation of prosecution.

19.[1] No prosecution against any person for anything purporting to be done under section 14, 15 or 16, or under any rule made in exercise of the powers conferred by section 17, shall be commenced after the expiration of three months next after the act complained of has been committed.

Notice of suit to be given.

No suit shall be brought for anything so purporting to be done until the expiration of one month next after notice in writing has been delivered at the residence of such person, or at the office of the Deputy Commissioner of the district in which the act was done, stating the cause of suit and the name and place of abode of the plaintiff.

Previous tender of amends.

If any person to whom any such notice of suit is given shall before such suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Protection to officers acting under warrant.

20. [1] No prosecution shall be instituted against any headman or goung for any act done by him in such capacity, under the authority of a warrant, issued by a Magistrate, notwithstanding any defect of jurisdiction in such Magistrate.

Miscellaneous.

Help in cases

21. If within or in the immediate neighbourhood of any town, village or

[1] *See* the third note on p. 72.

hamlet a dacoity or a robbery is committed or attempted, or dacoits or robbers are harboured, sheltered or assisted, and if the inhabitants of such town, village or hamlet without reasonable excuse fail to render active assistance in preventing the offence or in arresting and securing the offenders, the Chief Commissioner [1] may, after such enquiry as he deems necessary, impose upon such town, village or hamlet, or upon any section thereof, a fine, to be assessed upon the inhabitants according to his judgment of their respective means and of the circumstances of the case. of dacoity and robbery.

22. For the purposes of this Act the Chief Commissioner [1] may, from time to time, by notification in the local Gazette invest [2] any revenue-officer with any of the powers, and impose on him any of the duties, with which he may invest him or which he may impose upon him under the Burma Land and Revenue Act, 1876, [3] and the rules framed under it. Powers and duties of revenue-officers. of 1876.

23. All proceedings of any Deputy Commissioner or revenue-officer under this Act shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate and by the Chief Commissioner. [1] Control of Commissioner and Chief Commissioner.

24. The Chief Commissioner [1] may from time to time make rules [2] consistent with this Act for the guidance of officers in all matters connected with its enforcement. Power to make rules.

All such rules and all other rules made under this Act shall be published in the local Gazette, and shall thereupon have the force of law.

THE BURMA BOUNDARIES ACT, 1880.

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[1] See the fourth note on p. 69, *supra*.

[2] For manner in which arrears of any tax or cess under the Act may be realized, *see* notification noted on p. 58 of the Burma Rules Manual, Ed. 1897.

[3] Printed, *supra* p. 12.

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ACT No. V OF 1880.[1]

(APPLIES TO UPPER AND LOWER BURMA.)

[*20th February, 1880.*]

An Act to provide for the demarcation of land and for the establishment and maintenance of Boundary-marks in British Burma.[2]

[3] WHEREAS it is expedient to provide for the demarcation of land and for the establishment and maintenance of boundary and survey marks in Burma; It is hereby enacted as follow :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Burma Boundaries Act, 1880 : Short title.

It extends to the territories for the time being administered by the Chief Commissioner [4] of British Burma[2] : Local extent.

and it shall come into force at once. Commencement.

[1] For Statement of Objects and Reasons *see* Gazette of India, 1880, Pt. V, p. 9; for Proceedings in Council, *see ibid*, Supplement, p. 79 ; and *ibid*, 1880, pp. 153, 173, and 565.

The Act was declared in force in Upper Burma by the Burma Laws Act, 1898 (XIII of 1898) *see* the First Schedule. Printed, *infra*, p. 266.

[2] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] This Preamble was substituted for the original, by the Burma Boundaries Act Amendment Act, 1895 (II of 1895), s. 2. Printed, *infra*, p. 236. Act II of 1895 extends to the whole of Burma (inclusive of Upper Burma), except the Shan States, *see* Act II of 1895, s. 1 (2). In the original Preamble there was no reference to survey-marks, and the reference was to "British Burma."

[4] The officer designated Chief Commissioner in this Act, is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261

Definition of "survey-mark."

[1] **1A.** In this Act,—

"Survey-mark" means any pillar, pipe, post or other mark erected or placed above or below the surface by or by order of any officer appointed by the Local Government to make a survey of any land on or within the boundaries of such land for the purpose of indicating survey points or lines.

Power to appoint Demarcation and Boundary-officers; functions of such officers.

2. The Local Government may from time to time appoint persons, by name or by virtue of their office, to be Demarcation-officers and Boundary-officers,[2] and may suspend or remove any person so appointed.

Every person so appointed shall, subject to the control of the Local Government and of any superior officer[2] appointed by it in this behalf, exercise and perform, within such local limits as the Local Government may from time to time direct, the powers conferred, and the duties imposed, by this Act or the rules made hereunder on such officers respectively.

CHAPTER II.

DEMARCATION OF BOUNDARIES.

A.—Proceedings of Demarcation-officers.[3]

Power to direct demarcation of boundaries.

3. The Local Government may, whenever it thinks fit, by a notification in the official Gazette, direct that the boundaries of any land shall be demarcated by a demarcation-officer.

Power to enter on land to effect demarcation.

4. On the publication of any such notification, a Demarcation-officer appointed by the Local Government in this behalf may enter upon the land specified therein, and make all enquiries and do all other things necessary for demarcating the boundaries of the said land.

Publication of general notice.

5. The demarcation-officer shall cause to be published a general notice addressed to all persons owning, occupying or otherwise interested in the said land and the land marching therewith, and to all persons employed on or connected with the management of such land, calling upon them to attend either personally or by agent, before him, at such places and at such times as may be stated in such notice, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing the boundary-marks, and of affording such other assistance and information as may be needed for the purposes of the demarcation.

[1] This section was added by the Burma Boundaries Act Amendment Act, 1895 (II of 1895), s. 3, printed, *infra*, p. 237.

[2] For appointments made under this section, *see* notifications noted on p. 59 of the Burma Rules Manual, Ed. 1897; *ibid*, Burma Gazette, 1898, Pt. I, p. 11.

[3] For power to invest any Forest-officer in Lower Burma and in Upper Burma with the powers of a Demarcation-officer under this Act, *see* the Lower Burma Forest Act, 1881 (XIX of 1881), s. 70 (*a*), and the Upper Burma Forest Regulatn, 1898 (V of 1898), s. 71 (*1*) (*a*), *infra*, pp. 125 and 452 respectively.

The persons to whom such notice is addressed shall not be legally bound to attend.

Power to issue special notice to procure attendance.

6. The Demarcation-officer may also cause a special notice to be served on any of the persons mentioned in section 5 requiring such person to attend, personally or by agent, before him on or before a specified date, at such places and for such of the purposes aforesaid as may be stated in such notice; and every person upon whom such special notice may be served shall be legally bound to attend as required by the notice, and, so far as he may be able, to do any of the things mentioned therein.

Clearing of boundary-lines.

7. The Demarcation-officer may cause a special notice to be served on any owner or occupier of the said land requiring such owner or occupier to clear any boundary or other line which it may be necessary to clear for the purposes of the demarcation of such land, by cutting down and removing any trees, jungle, fences or standing crops, or to provide labour by furnishing flag-holders, or otherwise to assist in the demarcation of such land; and, if it is necessary to employ hired labour for these or other similar objects incidental to the demarcation, the Demarcation-officer may assess and recover from such owner or occupier the cost of such labour.

Compensation for injury done by clearance.

8. If any demand for compensation is made in respect of the clearance of any line in accordance with a requisition under section 7, the Demarcation-officer shall determine and record the value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which in his opinion should be allowed therefor.

Any dispute arising concerning the sufficiency of the amount so paid or tendered shall be determined by the Deputy Commissioner upon application made to him for that purpose by either of the disputing parties.

Power to summon person to give information or produce document.

9. The Demarcation-officer may issue a special notice calling upon any person who he has reason to believe can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document, on a date and at a place to be mentioned in the notice.

Every person on whom any such notice is served shall be legally bound to attend and to give such information or to produce such document as required by the notice.

Demarcation-officer to mark out

10. The Demarcation-officer shall, after making such inquiry as he thinks fit, mark out the boundaries of the land, and may cause boundary-marks, of

boundaries, and submit report to Boundary-officer.

such materials, in such number, and in such manner, as he thinks fit, to be erected by the owners or occupiers of the land, or may erect such marks and charge the cost of such erection to such owners or occupiers, and shall forward a report of his proceedings to the Boundary-officer :

When Demarcation-officers may alter demarcation.

Provided that, at any time before forwarding his report to the Boundary-officer, the Demarcation-officer may, for any sufficient reason to be stated in such report, alter any boundary marked out by him.

B.—Proceedings of Boundary-officers.

General notice to persons affected.

11. The Boundary-officer shall, on receipt of the report of the Demarcation-officer, cause a general notice to be published, informing all persons concerned that such report is open to inspection, and requiring any person who may have any objections to make thereto to submit a written statement of such objections within one month from the date of the publication of such notice.

Special notice to persons likely to object.

Whenever the Boundary-officer has reason to believe that any person interested is likely to object to any boundary as laid down in such report, he shall cause a special notice to be served on such person requiring him to submit, within the said period of one month, a written statement of his objection.

Statements of objections.

No person shall be entitled as of right to submit any statement of objection after the expiration of the said period of one month ; but it shall be in the discretion of the Boundary-officer to admit any such statement after the expiration of such period and before the order next hereinafter mentioned has been made.

Order of Boundary-officer.

12. When the said period of one month has expired and the objections (if any) made within it or subsequently admitted by the Boundary-officer have been inquired into by him, and any further inquiry which he may deem necessary has been made by him, the Boundary-officer shall pass such order as he thinks fit, confirming or modifying the boundaries as determined by the Demarcation-officer.

If any objection seems to him not to be well-founded, the Boundary-officer may direct that all expenses of the inquiry which have arisen from such objection shall be recovered from the person who made the same.

Objections subsequently made how dealt with.

13. When any person, within sixty days from the date of the order passed under section 12, makes any objection to the correctness of the demarcation-proceedings, the Boundary-officer may, in his discretion, either refuse to inquire into such objection, or may require the person making the same to deposit, within a reasonable time, the estimated cost of any further inquiry which it may be necessary to make in respect thereof.

Boundary-officer to make further inquiry.

14. If the costs of such further inquiry are deposited, the Boundary-officer shall, after making such inquiry, pass an order rejecting such objection or admitting the same and amending the order passed under section 12.

If, on such inquiry, the objection seems to the Boundary-officer not to be well founded, he may pass such order as he thinks fit in respect of the recovery, from the person making the objection, of any sum expended on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other person on account of such inquiry.

No person making an objection under section 13 shall, unless the Boundary-officer specially so directs, recover any portion of the amount deposited by him under section 13.

Power to enforce attendance of witnesses, etc.

15. For the purposes of any inquiry under this Act, the Boundary-officer shall, in addition to the powers conferred specially by this Act, have all the powers of a Demarcation-officer and also power to summon and enforce the attendance of witnesses and compel the production of documents, so far as may be, by the same means and in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.[1]

IV of 1882.

Power to refer dispute to arbitration.

16. The Boundary-officer, whenever he thinks fit, may, with the consent of the parties concerned, refer to arbitration any dispute as to a boundary.

The procedure laid down in Chapter XXXVII of the Code of Civil Procedure [1] shall apply (so far as may be) to such references.

Effect of orders of Boundary-officer.

17. The order passed by the Boundary-officer under section 12, or, when such order is amended under section 14, such amended order, shall, unless and until it be reversed or modified in manner hereinafter provided, be conclusive.

C.—Appeals from Orders of Boundary-Officers.

Orders appealable to Commissioner.

18. An appeal shall lie to the Commissioner of the division from every order passed by a Boundary-officer under section 12, section 13 or section 14.

Decision when final.

19. If the Commissioner confirms the order of the Boundary-officer on a matter of fact, such decision shall be final and conclusive.

Second appeal when allowed.

In all other cases in which the Commissioner confirms the order of the Boundary-officer, and in all cases in which the Commissioner reverses or modifies the order of the Boundary-officer, an appeal shall lie to the Judicial Commissioner, or, when the land comprised in the order is situated within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, to such Recorder.

[1] *See* now the Code of Civil Procedure (Act XIV of 1882), General Acts, Vol. IV, p. 262.

Period of limitation.

20. The period of limitation for an appeal under section 18 or section 19 shall run from the date of the order or decision appealed against and shall be as follows, that is to say :—

(*a*) in the case of an appeal under section 18—sixty days ;

(*b*) in the case of an appeal under section 19—ninety days ;

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.[1] XV of 1877.

Powers of Commissioner, etc.,

21. The Commissioner, the Judicial Commissioner and the Recorder of Rangoon shall in hearing and determining appeals presented under this Act have, as nearly as may be, the same powers as they have in the case of appeals from decrees and orders in civil suits.

D.—Boundary-marks.

When permanent boundary-marks are to be erected.

22. Whenever an order determining a boundary has become final, the Boundary-officer shall, unless permanent boundary-marks of a suitable description have already been erected along such boundary, cause to be erected permanent boundary-marks, of such materials, in such number, and in such manner, as he may consider sufficient to distinguish such boundary.

An order determining a boundary becomes final for the purposes of this section when it is not open to appeal.

Apportionment expense of erection of marks.

23. All expenses incurred by the Boundary-officer in erecting such boundary-marks for any land shall be apportioned amongst the owners or occupiers of such land, in such proportions as the Boundary-officer may think fit.

Notice to owners to pay share of expense.

24. When the expenses have been apportioned among such owners or occupiers, the Boundary-officer shall cause a notice to be served on each of them, specifying the amount payable by him in respect of such expenses, and requiring him to pay such amount to the Boundary-officers within one month from the service of such notice.

Power to place marks under charge of owners and occupiers.

25. The Boundary-officer may further cause a notice to be served on any owner or occupier, placing under his charge any boundary-marks erected on the boundary of his land, whether by order of such officer or otherwise.

Duty to preserve boundary marks.

Every owner or occupier shall preserve such boundary-marks as may be placed under his charge under this section, and shall give immediate notice to the nearest Magistrate or the officer in charge of the nearest police station if any such marks are injured, destroyed or removed, or require repairs.

Duty to give notice of any injury occurring to them.

[1] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

Power to re-erect and repair boundary-marks.

26. Whenever a Magistrate of the first or second class becomes aware that any mark erected under this Act within the local limits of his jurisdiction has been injured, destroyed or removed, or requires repairs, such Magistrate may cause such mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair from the owner or occupier who is bound under section 25 to preserve such mark.

27. [*Duties of village-officers.*] *Rep. by the Burma Boundaries Act Amendment Act, 1895 (II of 1895), s. 4.*

CHAPTER III.

MISCELLANEOUS.

Survey-officer.

[1] **28.** When any officer is appointed by the Government to make a survey of any land, the Chief Commissioner[2] may invest such officer, for the purposes of such survey, with all or any of the powers conferred on Demarcation-officers by sections 4 to 9 (both inclusive), and also with power to cause any boundary or survey or other marks to be erected or placed by the owners or occupiers of any land, or to erect or place such marks and to charge the cost of such erection or placing to such owners or occupiers.

All the provisions of sections 23 to 26 (both inclusive) shall apply to such marks, and the officer invested with such powers shall have all the powers of a Boundary-officer under the said sections.

Duties of village-officers and of owners and occupiers of land.

28A. It shall be the duty of every village-headman and thugyi and of every owner or occupier of land,—

(*a*) so far as he lawfully can, to prevent the destruction, injury or alteration of any boundary or survey mark within the local limits of his jurisdiction or on or within the land owned or occupied by him, as the case may be ;

(*b*) whenever he becomes aware that any such boundary or survey-mark has been destroyed, injured or altered, to report immediately to the officer in charge of the nearest police-station or to the nearest Magistrate such destruction, injury or alteration.

[1] Ss. 28 and 28A were substituted for the original s. 28, by the Burma Boundaries Act Amendment Act, 1895 (II of 1895), s. 5, printed, *infra*, p. 237.

[2] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April 1897, Gazette of India 1897, Pt. I, p. 261. All the powers and duties conferred and imposed on the Chief Commissioner are to be deemed to have been conferred and imposed on the Lieutenant-Governor, with effect from the first day of May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

Power to perform order under Act at expense of person disobeying it.

29. If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions herein contained to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed; and the expenses incurred in such performance shall be payable by such owner, occupier or other person.

Penalty for failure to discharge duty imposed or for refusing or neglecting to comply with orders or notice under Act.

30.[1] Whoever—

(*a*) knowingly fails to discharge any duty imposed on him by this Act or any rule made thereunder, or

(*b*) being legally bound to comply with any lawful order under this Act or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith,

shall be punished with fine which may extend to fifty rupees.

Recovery of amounts due under Act.

31. Every amount due under the provisions of this Act may be recovered as if the same were an arrear of land-revenue.

Power to make subsidiary rules.

32. The Chief Commissioner[2] may from time to time make rules[3] consistent with this Act—

(*a*) for the collection and record of any information in respect of any land;

(*b*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act;

(*c*) regulating the delegation by such officers to subordinate officers of the powers and duties conferred and imposed on them respectively by this Act or the rules made thereunder;

(*d*) for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

(*e*) for the publication, issue and service of all notices, whether general or special, to be published, issued or served under this Act and

(*f*) for carrying out generally the purposes of this Act.

Mode of publication.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

[1] This section was substituted for the original s. 30 by the Burma Boundaries Act Amendment Act, 1895 (II of 1895), s. 6, printed, *infra*, p. 237.

The wording of the original section was as follows:—"Whoever, being legally bound to comply with any lawful order under this Act, or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith, shall be punished with fine which may extend to fifty rupees."

[2] See the second note on p. 83, *supra*.

[3] For rules under this section, *see* Burma Gazette, 1897, Pt. I, p. 264.

THE VACCINATION ACT, 1880.

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13. Procedure when child is unfit for vaccination.
 Renewal of postponement-certificates.
14. Certificates of insusceptibility of successful vaccination.
15. What lymph to be used.
16. No fee to be charged except by private vaccinator.
 Proviso.
17. Duties of Superintendent of vaccination.
 Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with.
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 Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

ACT No. XIII OF 1880.[1]

(APPLIES TO UPPER AND LOWER BURMA.)

[*The 9th July, 1880.*]

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

Preamble. WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Vaccination Act, 1880; and

Application. it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma,[2] Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided.[3]

Interpretation clause. 2. In this Act, unless there is something repugnant in the subject or context, –

Municipal commissioners. (*1*) the expression "municipal commissioners" means a body of municipal commissioners or a municipal committee constituted under the provisions of any enactment for the time being in force :[4]

Parent. (*2*) "parent" includes the father of a legitimate child and the mother of an illegitimate child :

Guardian. (*3*) "guardian" includes any person who has accepted or assumed the care or custody of any child :

Unprotected child. (*4*) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Pt V, p. 80; for Report of the Select Committee, *see ibid*, p. 205; for Proceedings in Council, *see ibid*, 1879, Supplement, p 1225; *ibid*, 1880, pp. 566 and 1204.

Act XIII of 1880 has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898, (XIII of 1898), *see* s. 4 and the First Schedule. Printed, *infra*, p. 260.

[2] Read now "Lower Burma," *see* Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

The officer designated Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261.

[3] For list of municipalities and cantonments to which this Act has been extended, *see* Appendix B to the Burma Laws List, Ed. 1897.

[4] *See* the Burma Municipal Act, 1898 (Burma Act, III of 1898), s. 7, *infra*, p. 485, and the Upper Burma Municipal Regulation, 1887 (V of 1887), printed, *infra*, p. 316.

having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

Inoculation.

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

Vaccination-circle

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination:

Vaccinator.

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination":

Vaccination-season.

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the municipal commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality[1]; and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection, in writing, to the Secretary to the Local Government; and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may, by like notification, effect the proposed extension.

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.[1]

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette withdraw any local area in a municipality or, with the previous sanction of the Governor General in Council, any local area in a cantonment from the operation of this Act.

[1] For list of notifications in connection with extensions of the Act to Municipalities and Cantonments, *see* Burma Laws List, p. 128, Ed. 1897; *see* also Appendix B at the end of that volume, p. x.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorized to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle or shall in manner hereinafter provided be divided into a number of such circles:

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection or get it inspected at his own house by a vaccinator; and

Such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccin-

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by

the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected. ation is successful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided. Procedure when vaccination is unsuccessful.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and, on the termination of that period, or if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator : Procedure when child is unfit for vaccination.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed. Renewal of postponement-certificates.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect ; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated. Certificates of insusceptibility of successful vaccination.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act : What lymph to be used.

Provided that,

first, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human-lymph it shall be so vaccinated ; and

second, if in any local area in which animal-lymph is procurable human-lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act : No fee to be charged except by private vaccinator.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed. Proviso.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the municipal commissioners may from time to time make rules[1] consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force,[2] the commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall when confirmed by the Local Government and published in the official Gazette have the force of law:

[1] For a list of rules made under this Act, *see* the Burma Gazette references on pp. 128, 130 and 132 of the Burma Laws List, Ed. 1897.

[2] *See* the Burma Municipal Act, 1898 (III of 1898), s. 142, *infra*, p. 485.

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may from time to time, subject to the control of the Governor General in Council, make such rules.[1]

What rules under sections 19 and 20 may provide for.

21. The rules to be made for any local area under section 19 or 20 may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination ;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station ;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination ;

(*d*) the authority with which their appointment, suspension and dismissal shall rest ;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles ;

(*f*) the distinguishing mark or badge to be worn by them ;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination, or of insusceptibility of vaccination ;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;

(*k*) the fee to be paid for vaccination with animal-lymph under section 15 ;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination circle at the request of the parent or guardian of the said child ;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act ;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act

[1] For such rules, *see* Burma Gazettes referred to on p. 132 of the Burma Laws List, Ed. 1897.

is applied, under the age of fourteen years if boys, and of eight years if girls ;

the names of unprotected boys and girls, respectively, under those ages brought within such local area at any time after the application of this Act and who have resided there for a month ;

the result of each vaccination or its postponement, and the delivery of certificates, if any ;

(*n*) the assistance to be given by the municipal commissioners and municipal servants in the preparation of these registers, and in other matters ; and,

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say) :—

(*a*) violates the provisions of section 6,

(*b*) neglects without just excuse to obey an order made under section 18

(*c*) breaks any of the rules made under section 19 or 20, or

(*d*) neglects without just cause to obey an order made under section 18, after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) : —

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees ; and,

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to, and paid from, the municipal fund.

ACT No. II OF 1881.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*1st January, 1881.*]

An Act to regulate the Navigation of the Pegu and Sittang Canal, and to provide for the protection of the said Canal and the execution of works necessary for its maintenance.

Preamble.

WHEREAS the Government has constructed a canal connecting the waters of the Pegu and Sittang rivers, partly by digging artificial channels and partly by using the water-bed of the Ka-ya-zoo creek; and whereas it is necessary to provide for the navigation, protection and maintenance of the said canal; It is hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called the Pegu and Sittang Canal Act, 1881; and it shall come into force at once.

Commencement.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "the canal" means the Pegu and Sittang canal, and includes—

(*a*) all channels and reservoirs now or hereafter constructed, maintained or controlled by the Government for the supply or storage of water in connection with the said canal, or supplemental thereto, between the Sittang lock, situated at Myit-kyo, on the Sittang river, and the Pegu lock, situated near the village of Sin-o-bo, on the Pegu river;

(*b*) all works, embankments, structures and supply and escape channels connected with the canal or with the said channels and reservoirs;

(*c*) all lands occupied by the Government for the purposes of the said canal, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce occupied by or belonging to the Government, upon such lands:

(*2*) "vessel" includes boats, rafts, timber and other floating bodies:

(*3*) "Canal-officer" means an officer appointed under this Act by the Chief Commissioner[2] to exercise control over the canal or any part thereof:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Pt. V, p. 397; for Proceedings in Council, *see ibid*, Supplement, pp. 1435 and 1460; and *ibid*, Supplement, 1881, p. 19.

[2] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated the 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; and all powers and duties conferred and imposed on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

(*4*) "Superintending Canal-officer" means an officer exercising general control over the canal.

Power to appoint officers.

3. The Chief Commissioner[1] may from time to time declare, by notification in the British Burma Gazette,[2] the officers[3] by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

Navigation of the Canal.

Tolls to be levied from vessels using the canal.

4. Such tolls as the Chief Commissioner[1] may from time to time, by notification in the British Burma Gazette,[2] direct, shall be levied from all vessels entering or navigating the canal.

Power to detain vessels violating rules.

5. Any vessel entering or navigating the canal contrary to the rules made in that behalf under this Act by the Chief Commissioner,[1] or so as to cause danger to the canal or to the other vessels therein, may be removed or detained or both removed and detained by a Canal-officer, or by any other person duly authorized under section 3 in that behalf.

The owner of any vessel causing damage to the canal, or removed or detained under this section, shall be liable to pay to the Government such charge as the Canal-officer, with the approval of the Superintending Canal-officer, determines to be necessary to defray the cost of repairing such damage, or of such removal or detention, as the case may be.

Power to detain vessel on failure to pay tolls or charges.

6. If any toll or charge due under this Act in respect of any vessel is not paid on demand to the person authorized to collect the same, the Canal-officer may seize and detain such vessel and the furniture thereof, until such toll or charge, together with all expenses arising from such seizure and detention, is paid in full.

Power to seize cargo or goods if charges due thereon are not paid.

7. If any charge due to the Government in respect of any cargo or goods carried in a Government vessel on the canal, or stored on or in lands or warehouses occupied for the purposes of the canal, is not paid on demand to the person authorized to collect the same, the Canal-officer may seize such cargo or goods, and detain it or them until the charge so due, together with all expenses arising from such seizure and detention, is paid in full.

Power to sell property seized under section 6 or 7.

8. Within a reasonable time after any seizure under section 6 or section 7, the Canal-officer shall give notice to the owner or person in charge of the property seized, that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than 21 days from the

[1] *See* the second note on preceding page.
[2] Read now Burma Gazette, *see* Burma Laws Act, 1898 (XIII of 1898), s. 7. Printed, *infra*, p. 260.
[3] For notification appointing officers, *see* p. 67 of the Burma Rules Manual, Ed. 1897.

date of the notice, be sold in satisfaction of the claim on account of which such property is detained, unless the claim is discharged before the day so named;

and, if such claim is not so discharged, the Canal-officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale.

The residue (if any) of such property, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

9. If any vessel is found abandoned in the canal or any cargo or goods carried in a Government vessel on the canal, or stored on or in lands or warehouses occupied for the purposes of the canal, is, or are left unclaimed for a period of two months, the Canal-officer may take possession of the same.

Power to sell.

The officer so taking possession shall publish a notice in such manner as the Chief Commissioner[1] may from time to time by rule direct, that if such vessel and its contents, or such cargo or goods, is or are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods is or are not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls and charges due in respect of the vessel, cargo or goods and all expenses incurred by the Canal-officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Canal-officer.

If the Canal-officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold and the proceeds to be paid into the district treasury, there to be held until the right thereto is decided by a Court of competent jurisdiction.

Maintenance of the Canal.

Power of Canal-officer to enter on land and remove obstructions, etc.

10. A Canal-officer, empowered by the Commissioner of the division generally or specially in this behalf, or any other person acting under the general or special order of such officer, may enter on any land in the neighbourhood of the canal and remove any obstructions, and may close any channels and do any other thing necessary or convenient for the maintenance of the canal.

[1] *See* the second note on p. 93, *supra*.

Power to enter and survey, etc.

11. Any such officer or other person may, for the purposes of any enquiry relating to any part of the canal under the charge of such officer, enter upon any such lands, and undertake surveys or levels thereon, and dig and bore into the subsoil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for such purposes;

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle.

Power to enter, to repair and to prevent accidents.

12. In case of any accident happening or being reasonably apprehended to, the canal, any such officer or other person may enter upon any such lands, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for damage caused by entry.

13. In every case of entry under section 10, 11 of 12, the Canal-officer shall tender, as soon as may be reasonably practicable, to the owner or occupiers of the land, compensation for any damage which may be occasioned by such entry and by any proceeding under such section.

In case of dispute as to the sufficiency of the amount so tendered, the Canal-officer shall forthwith refer the same for decision by the Deputy Commissioner, whose decision thereon shall be final.

Obtaining Labour and Materials for Work on the Canal.

Procedure for obtaining labour and materials for works urgently required.

14. Whenever it appears to a Canal-officer that, unless some work is immediately executed, such serious damage will happen to the canal as will cause sudden and extensive public injury,

and that the labourers or materials necessary for the proper execution of such work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such damage,

such officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such work, and thereupon—

(*a*) every able-bodied person whose name appears in the list hereinafter mentioned shall, if required so to do by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such work by labouring thereon as such officer or other person directs, and

(*b*) such officer or any person authorized by him in this behalf may enter into and upon any immoveable property in the neighbourhood of the canal, and take possession of, appropriate and remove any trees or bamboos, whether standing or not, and any timber, mats, ropes or other materials found in or upon such property, and use the same for the purposes of such work.

Every person authorized as mentioned in this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.[1]

XLV of 1860.

15. Subject to such rules as the Chief Commissioner[2] may from time to time with the previous sanction of the Governor General in Council, prescribe in this behalf, the [3] [Deputy Commissioner of Pegu] shall prepare lists of persons residing in the neighbourhood of the canal * * *[4] and liable to be required under section 14 to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Deputy Commissioner to prepare list of persons liable to serve.

16. All persons labouring or detained for the purpose of labouring in compliance with a requisition made under section 14, or whose materials may be taken under that section, shall, as soon as may be reasonably practicable, be paid by the Canal-officer for their labour and detention, or for such materials (as the case may be), at a rate not being less than twenty-five per cent. above the highest market-rates for similar labour or materials for the time being prevailing in the neighbourhood.

Payment for labour impressed and materials taken.

Any dispute arising between the Canal-officer and any person as to the amount to be paid to such person under this section may be referred by either party to the Deputy Commissioner, whose decision thereon shall be final.

17. Whenever, from the removal, under section 14, of any trees, bamboos or other materials, any damage over and above the price payable for such materials results directly to any person, the Canal-officer shall pay to such person such sum as may be agreed upon as compensation for such damage. In case of dispute as to the amount so to be paid, either party may refer such dispute to the Deputy Commissioner, whose decision thereon shall be final.

Compensation for damage done in taking materials.

Offences and Penalties.

18. Whoever, without proper authority and voluntarily, does any of the acts following, that is to say :—

Offences under Act.

(*a*) damages, alters or obstructs the canal;

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

[2] *See* the second note on p. 93, *supra*.

[3] These words were substituted for the words "Deputy Commissioners of Rangoon and Shweygyin" by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[4] The words "in the said districts respectively" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

(*b*) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under the canal;

(*c*) interferes with or alters the flow of water in any river or stream, so as to endanger or damage the canal or render it less useful;

(*d*) corrupts or fouls the water of the canal, so as to render it less fit for the purposes for which it is ordinarily used;

(*e*) causes any vessel to enter or navigate, or to remain at any place in the canal contrary to the rules for the time being prescribed by the Chief Commissioner [1] for entering, navigating or remaining in the canal;

(*f*) while navigating the canal, neglects to take proper precautions to prevent injury to the canal and to vessels therein;

(*g*) being a person liable to labour under section 14, refuses or neglects without reasonable cause so to labour;

(*h*) destroys or moves any landmark, level-mark or water-gauge fixed by the authority of a Canal-officer;

(*i*) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of the canal contrary to rules made under this Act, after he has been desired by a Canal-officer to desist therefrom; or

(*j*) pastures any animals on the banks of the canal, or knowingly suffers any animals belonging to him or under his charge to graze on such banks;

Penalty. shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Saving of prosecution under other laws. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:

Provided that no person shall be punished twice for the same offence.

Recovery of fines for offences in navigating canal. **19.** Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner, or any other person in charge of a vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure,[2] or, if the Magistrate imposing the fine so directs, as though it were a charge under this Act due in respect of such vessel. X of 1882.

Power to arrest without warrant. **20.** Any person duly authorized in this behalf under section 3 may remove from the lands or buildings belonging to the canal, or may arrest with-

[1] *See* the second note on p. 93, *supra*.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), ss. 386—389, printed, General Acts, Vol. VI, p. 380.

out a warrant, and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the offences mentioned in clauses (*a*), (*b*) and (*c*) of section 18.

Power to make Rules.

Power to make rules.

21. The Chief Commissioner [1] may, subject to the control of the Governor General in Council, from time to time, make rules [2] consistent with this Act to regulate the following matters :—

(*a*) the navigation of the canal ;

(*b*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter ;

(*c*) the amount of any tolls leviable under this Act ; and,

(*d*) generally, to carry out the provisions of this Act.

The Chief Commissioner [1] may, in making any such rule, attach to the breach of it the penalty specified in section 18.

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Such rules shall be published in the British Burma Gazette [3] and shall thereupon have the force of law.

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22. [*Validation of past proceedings.*] *Rep. by the* [4]*Repealing and Amending Act, 1891* (*XII of 1891*).

THE BURMA FOREST ACT, 1881.

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[2] For rules made under the Act, *see* notification noted on p. 67 of the Burma Rules Manual, Ed. 1897.

[3] Read now Burma Gazette, *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra* p. 262.

[4] Printed, General Acts, Vol. VI, p. 32.

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ACT No. XIX OF 1881.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*31st August, 1881.*]

An Act to amend the law relating to Forests, Forest-produce and the duty leviable on Timber in British Burma.[2]

Preamble.

WHEREAS it is expedient to amend the law relating to forests, forest-produce and the duty leviable on timber in British Burma;[2] It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Burma Forest Act, 1881:

Local extent.

It extends to all the territories for the time being administered by the Chief Commissioner[3] of British Burma:[2]

Provided that the Chief Commissioner[3] may, by notification in the official Gazette, exempt any place from its operation; but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, in such place before such exemption; and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1876, Pt. V, p. 1476; and Gazette of India, 1881, Pt. V, p. 33; for Proceedings in Council, *see ibid*, Supplement, p. 1325, and *ibid*, 1877, Supplement, p. 2744; *ibid*, 1881, Supplement, pp. 10, 47, and 1056.

[2] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; and all powers and duties imposed and conferred on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898).

Commencement.

It shall come into force on such day [1] as the Chief Commissioner [2] may, by notification in the official Gazette, direct.

2. [*Repeal of enactments.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891.)* [3]

Interpretation-clause.

3. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,—

"Forest-officer" means all persons appointed by name or as holding an office, by or under the orders of the Governor General in Council or the Chief Commissioner,[2] to be—

Conservators, Deputy Conservators, [4] [Extra Deputy Conservators], Assistant Conservators, [5][Extra Assistant Conservators], Forest-rangers, Foresters or Forest-guards, or to

discharge any function of a Forest-officer under this Act or any rule made hereunder:

[6] "tree" includes palms, bamboos, stumps, brush-wood and canes:

"timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not:

[6] "forest-produce" includes—

(*a*) the following, whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(*b*) the following when found in, or brought from, a forest, that is to say:—

(*i*) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(*ii*) plants not being trees (including grass, creepers, reeds and moss),

and all parts or produce of such plants,

(*iii*) wild animals, and skins, tusks, horns, bones, silks, cocoons, honey and wax, and all other parts or produce of animals, and

(*iv*) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):

[1] Act XIX of 1881 came into force on 1st July, 1882, *see* Burma Gazette, 1882, Pt. I, p. 125.

[2] *See* the third note on preceding page.

[3] Printed, General Acts, Vol. VI, p. 32.

[4] These words were inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p 278.

[5] These words were substituted for the words "Sub-Assistant Conservators," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[6] The definitions of "tree" and "forest-produce" were substituted for the original definitions, by the Forest Act, 1890 (V of 1890), s. 15, printed, *infra*, p. 230.

"forest-offence" means an offence punishable under this Act or any rule made hereunder:

"cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

"river" includes also streams, canals, creeks and other channels, natural or artificial:

"land at the disposal of Government" means—

(*a*) land in respect of which no person has acquired the status of a land-holder under section 7 of the Burma Land and Revenue Act, 1876;[1] XXI of 1876.

(*b*) land in respect of which no person has acquired any right created by grant or lease made by, or on behalf of, the British Government:

"Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Chief Commissioner[2] to try forest-offences.

Saving of rights of profit from the Burma Land and Revenue Act, 1876.

II of 1876. **4.** Nothing in the Burma Land and Revenue Act, 1876,[1] shall be deemed to affect or ever to have affected any right by which one person is entitled to remove and appropriate, for his own profit, any part of the soil belonging to another person or to the Government, or anything growing in, or attached to, or subsisting upon, the land of another person or of the Government.

CHAPTER II.

Of Reserved Forests.[3]

Power to reserve forests.

5. The Chief Commissioner[2] may constitute any land at the disposal of Government a reserved forest in manner hereinafter provided.

Notification by Chief Commissioner.

6. Whenever it is proposed to constitute any land a reserved forest, the Chief Commissioner[2] shall publish a notification in the official Gazette—

(*a*) specifying as nearly as possible the situation and limits of such land;

(*b*) declaring that it is proposed to constitute such land a reserved forest;

(*c*) appointing an officer (hereinafter called "the Forest-Settlement-officer") to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of

[1] Printed, *supra*, p. 12.

[2] *See* the third note on p. 103, *supra*.

[3] As to the application of provisions relating to reserved forests, (*1*) to forests reserved under former rules, *see* s. 30; (*2*) village-forests, *see* ss. 33, 34, *infra*.

any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of toungya cultivation, and to deal with the same as provided in this Chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person other than a Forest-officer; but a Forest-officer may be appointed by the Chief Commissioner [1] to assist the Forest-Settlement-officer in the inquiry prescribed by this Chapter.

Proclamation by Forest-Settlement-officer.

7. When a notification has been published under section 6, the Forest-Settlement-officer shall publish, in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest;

(*b*) setting forth the substance of the provisions of section 8;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 6, either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right or claim.

Bar of accrual of forest-rights.

8. During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right, or power to create the same, was vested when the proclamation was published; and, on such land, no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided.

Prohibition of building, clearing, etc.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-Settlement-officer, or any clearings lawfully made for toungya cultivation by persons in the habit of practising such cultivation on such land.

[1] *See* the third note on p. 103, *supra*.

Inquiry by Forest-Settlement-officer.

9. The Forest-Settlement-officer shall take down in writing all statements made under section 7 and shall inquire into all claims made under that section, and the existence of any right or practice mentioned in section 6 in respect of which no claim is made. The Forest-Settlement-officer shall, at the same time, consider and record any objection which the Forest-officer (if any), appointed under section 6 to assist him, may make to any such claim or to the existence of any such right or practice.

Powers of Forest-Settlement-officer.

10. For the purposes of such inquiry, the Forest-Settlement-officer may exercise the following powers (that is to say) :—

(*a*) the powers of a demarcation-officer under the Burma Boundaries Act, 1880,[1] and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure [2] for compelling the attendance of witnesses and the production of documents.

Claims relating to practice of toungya cultivation how dealt with.

11. In the case of a claim relating to the practice of toungya cultivation, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and permitting, or refusing to permit, such practice wholly or in part.

If such practice is permitted wholly or in part, the Forest-Settlement-officer may—

(*a*) alter the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants ; or

(*b*) cause certain portions of the reserved forest to be separately demarcated, and give permission to the claimants to practise toungya cultivation under such rules and conditions as he may prescribe.

No right to practise toungya cultivation shall be deemed to be conferred by an order under this section permitting such practice, and, except with the sanction of the Chief Commissioner,[3] such cultivation shall only be practised by the person to whom such permission is granted.

Power to acquire land over which right is claimed.

12. In the case of a claim to a right in or over any land other than the following rights :—

(*a*) a right-of-way,

(*b*) a right to a water-course, and to use of water,

(*c*) a right of pasture, or to forest-produce

[1] Printed, *supra*, p. 77.

[2] *See* now the Code of Civil Procedure, 1882 (Act XIV of 1882), Ch. XIV, printed, General Acts, Vol IV, p. 262.

[3] *See* the third note on p. 103, *supra*.

the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the Forest-Settlement-officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forest; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.[1] X of 1870.

For the purpose of so acquiring such land—

(i) the Forest-Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870 [1]; X of 1870.

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to right-of-way, water-course, pasture, and to forest-produce.

13. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*) and (*c*) of section 12, the Forest-Settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position and area of such land, and the designation and position of such buildings.

Where the right is a right to forest-produce, he shall also record whether the forest-produce obtained by the exercise of such right may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right.

Provision for rights of pasture or to forest-produce admitted.

14. When the Forest-Settlement-officer has admitted, wholly or in part, and recorded under section 13, a claim to a right of pasture or to forest-produce, he shall as far as possible provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant;

(*b*) by recording an order continuing to the claimant a right of pasture

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), printed, General Acts, Vol. VI, p. 100.

or to forest-produce (as the case may be), subject to such rules as may be prescribed by the Chief Commissioner.[1]

The order passed under clause (*b*) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted ; or

the quantity of timber or other forest-produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted ; and

such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

Commutation of such rights.

15. Whenever any right of pasture or to forest-produce admitted under section 13 is not provided for in one of the ways prescribed in section 14, the Forest-Settlement-officer shall, subject to such rules as the Chief Commissioner [1] may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

For the purpose of granting land under this section, the Forest-Settlement-officer shall be deemed to be an Assistant Commissioner in charge of a sub-division.

Appeal from order passed under foregoing sections.

16. Any person who has made a claim under this Chapter may, within three months from the date of any order passed on such claim by the Forest-Settlement-officer under section 11, 12, 13, 14 or 15, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Chief Commissioner [1] may, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeal under section 16.

17. Every appeal under section 16 shall be made by petition in writing and may be delivered to the Forest-Settlement-officer, who shall forward it without delay to the officer competent to hear the same.

Hearing of appeals.

Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue, and the order passed thereon by such officer shall be final, except as hereinafter provided.

Notification declaring forest reserved.

18. When the following events have occurred (namely) :—

(*a*) the period fixed under section 7 for preferring claims has elapsed, and

[1] *See* the third note on p. 103, *supra*.

all claims (if any) made within such period have been disposed of by the Forest-Settlement-officer, and

(*b*) if such claims have been made, the period fixed by section 16 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer, and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest-Settlement-officer has, under section 12, elected to acquire under the Land Acquisition Act, 1870,[1] have become vested in the Government under section 16 of that Act, X of 1870.

the Chief Commissioner[2] may publish a notification in the official Gazette, specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.

19. Rights in respect of which no claim has been preferred under section 7, and of the existence of which no knowledge has been acquired by inquiry under section 9, shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 7.

Publication of translation of such notification in neighbourhood of forest.

20. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section 7.

Power to revise arrangement made under section 14 or 17.

21. The Chief Commissioner[2] may, within five years from the publication or any notification under section 18, revise any arrangement made under section 11, 14 or 17, and may rescind or modify any order made under this Chapter, and direct that any one of the proceedings specified in section 14 be taken in lieu of any other of such proceedings, or that the permission granted under section 11, or rights admitted under section 13, be commuted under section 15.

No right acquired over reserved forest except

22. No right of any description shall be acquired in or over a reserved forest, except by succession, or under a grant or contract in writing made by, or on behalf of, the Government, or some person in whom such right, or the

[1] *See* now the Land Acquisition Act, 1894 (I of 1894), printed, General Acts, Vol. VI, p. 100.

[2] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. All powers and duties conferred and imposed on the Chief Commissioner are to be deemed to have been conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

power to create such right, was vested when the notification under section 18 was published. as here provided.

23. Notwithstanding anything herein contained, no right continued under section 14 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the Chief Commissioner:[1] Rights not to be alienated without sanction.

Provided that, when any such right is continued for the beneficial enjoyment of any land or house, it may be sold or otherwise alienated with such land or house without such sanction.

No timber or other forest-produce obtained in exercise of any right so continued shall be sold or bartered except to the extent defined by the order recorded under section 14.

24. Any Forest-officer may, from time to time, with the previous sanction of the Chief Commissioner[1] or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest: Power to stop ways and water-courses in reserved forest.

Provided that, for the way or water-course so stopped, another way or water-course, which in the opinion of the Chief Commissioner[1] is equally convenient, already exists, or has been provided or constructed by such Forest-officer.

25. Any person who in a reserved forest— Penalties for trespass or damage in reserved forests.

(*a*) trespasses, or pastures cattle, or permits cattle to trespass,

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber,

(*c*) strips off the bark or leaves from or otherwise damages any tree,

(*d*) in contravention of any rules made by the Chief Commissioner,[1] hunts, shoots, fishes, poisons water or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

26. Any person who— Acts prohibited in such forests.

(*a*) makes any fresh clearing prohibited by section 8, or

[2](*b*) sets fire to a reserved forest, or, in contravention of any rules made by the Chief Commissioner,[1] kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,

or who, in a reserved forest,—

(*c*) kindles, keeps or carries any fire except at such seasons and in such

[1] *See* the second note on preceding page.

[2] This clause was substituted for the original cl. (*b*) of s. 26, by the Forest Act, 1890 (V of 1890), s. 16, printed, *infra*, p. 280.

manner as a Forest-officer specially empowered in this behalf may from time to time notify,

(*d*) fells, girdles, lops, taps or burns any tree,

(*e*) quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process, or removes, any forest-produce,

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Acts excepted from prohibition contained in sections 25 and 26.

27. Nothing in section 25 or section 26 shall be deemed to prohibit (*a*) any act done in accordance with any rule made by the Chief Commissioner [1] or with the permission in writing of a Forest-officer specially empowered to grant such permission; or (*b*) any practice of toungya cultivation permitted under section 11; or (*c*) the exercise of any right continued under section 14 or created by grant or contract in the manner described in section 22.

Penalty for offences committed by persons having rights in reserved forests.

28. Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest, or having permission to practise toungya cultivation therein, or by any person in his employment or whenever any person having rights in such forest contravenes the provisions of section 23, the Chief Commissioner [1] may (notwithstanding that a penalty has been inflicted under section 26 in respect of such fire) direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture or to forest-produce shall be extinguished or suspended for such period as he thinks fit, and may withdraw any permission to practise toungya cultivation in such forest or portion.

Power to declare forest no longer reserved.

29. The Chief Commissioner [1] may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be reserved.

From the date so fixed, such forest or portion shall cease to be reserved, but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

Forests reserved under former rules.

30. Any forest which has been declared a reserved forest under any rules in force previous to the day on which this Act comes into force shall be deemed to have been reserved hereunder;

and all questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided,

[1] *See* the second note on p. 110, *supra*.

issued and prepared hereunder, and all provisions of this Act relating to reserved forests shall apply to such forest.

CHAPTER III.

Of Village-forests.

Constitution of village-forests.

31. The Chief Commissioner[1] may, by notification in the official Gazette, constitute any land at the disposal of Government a village-forest for the benefit of any village-community or group of village-communities, and may, in like manner, vary or cancel any such notification.

Every such notification shall specify the limits of such village-forest.

Teak trees in village-forest the property of Government.

32. All teak trees in a village-forest shall be deemed to be the property of Government; and no person shall cut, mark, lop, girdle or injure by fire or otherwise any such trees without the permission in writing of a Forest-officer specially empowered to grant such permission.

Power to make rules for village-forests.

33. The Chief Commissioner[1] may make rules for regulating the management of village-forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted may be provided with timber or other forest-produce or with pasture, and their duties in respect of the protection and improvement of such forest.

The Chief Commissioner[1] may, by such rules, declare any of the provisions of Chapter II of this Act to be applicable to village-forests.

Saving of private rights.

34. Nothing in this Chapter shall be deemed to affect any existing right of any person in or over any village-forest.

Power to inquire into and deal with such rights.

The Chief Commissioner[1] may, in any case, direct that all claims to any such rights, other than the rights of the village-community or group of village-communities for the benefit of which such village-forest is constituted, shall be inquired into, recorded and provided for in the manner prescribed by Chapter II of this Act.

CHAPTER IV.

Of the Protection of certain Trees and [2][Forest-produce].

Reserved trees.

35. All teak trees standing on any land not included in a reserved or

[1] *See* the second note on p. 110, *supra*.

[2] The words "Forest-Produce" were substituted for the words "Natural Produce," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

village-forest shall be deemed to be the property of Government and shall be reserved trees.

The Chief Commissioner[1] may, by notification in the official Gazette,—

(*a*) declare that any other trees or any specified class of other trees standing on any land at the disposal of Government shall, from a date to be fixed by such notification, be reserved trees;[2]

(*b*) vary or cancel any such notification;

(*c*) declare that any teak trees standing on land other than land at the disposal of Government shall, from a date to be fixed by such notification, cease to be the property of Government and to be reserved trees.

Protection of reserved trees.

36. No person shall cut, mark, lop, girdle, tap or injure by fire or otherwise any reserved tree, except as provided by rules made by the Chief Commissioner[1] in this behalf, or with the permission in writing of a Forest-officer specially empowered to grant such permission.

Whoever cuts, marks, lops, girdles, taps or injures by fire or otherwise any reserved tree in contravention of this section shall be punished with fine which may extend to twenty rupees, or, when the damage resulting from his offence amounts to more than ten rupees, to double the amount of such damage.

Power to make rules generally.

37. No person shall make use of the [3][forest-produce] of any land at the disposal of Government and not included in a reserved or village forest, except in accordance with rules[4] which may be prescribed by the Chief Commissioner.[1] Such rules may, with respect to such land,—

(*a*) regulate or prohibit the cutting of toungyas, or the issue of grants or leases by Government with respect to land on which teak trees are growing;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*c*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection and removal of [5][forest-produce];

[1] *See* the second note on p. 110, *supra*.

[2] For instances of notifications declaring certain trees *reserved*, *see* Notifications No. 119, Burma Gazette, 1892, Pt. I, p. 354, and No. 304, Burma Gazette, 1892, Pt. I, p. 521.

[3] The words "forest-produce" were substituted for the words "pasturage or of the natural produce," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[4] For Arakan Forest Rules, *see* Notification No. 554, December, 1896, Burma Gazette, 1896, Pt. I, p. 674.

[5] The words "forest-produce" in clauses (*c*), (*g*) and (*h*) were substituted for the words "natural-produce," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

(*Chap. IV.—Of the Protection of certain Trees and Forest-produce.* *Sec.* 38. *Chap. V.—Of the Duty on Timber and other Forest-produce.* *Sec.* 39.)

(*d*) regulate or prohibit the quarrying of stone, the boiling of cutch or the burning of lime or charcoal;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing;

(*f*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares;

(*g*) regulate the sale or free grant of timber or other [1][forest-produce]; and

(*h*) prescribe, or authorize any Forest-officer to prescribe, subject to the control of the Chief Commissioner,[2] the fees, royalties or other payments for such timber or other [1][forest-produce], and the manner in which such fees, royalties or other payments shall be levied, whether in transit, or partly in transit, or otherwise.

Penalties for acts in contravention of rules.

The Chief Commissioner[2] may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

The Chief Commissioner[2] may exempt any person or class of persons or any local area from the operation of any such rule, and may cancel such exemption.

Nothing in this Chapter to prohibit acts done in certain cases

38. Nothing in this Chapter or in any rule made under this Chapter shall be deemed to prohibit any act done with the permission in writing of a Forest-officer specially empowered to grant such permission, or in the exercise of any right.

CHAPTER V.

[OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE].[3]

Power to impose duty on timber or other forest-produce.

39. The Chief Commissioner[2] may levy a duty,[4] in such manner, at such places and at such rates as he may prescribe by notification in the official Gazette, on all timber [5][or other forest-produce] which is brought into British Burma[6] from any place beyond the frontier of British Burma.[6]

Power to fix

In every case in which such duty is directed to be levied *ad valorem*, the

[1] *See* the fifth note on p. 114, *supra*.

[2] *See* the second note on p. 110, *supra*.

[3] This heading to Ch. V was substituted for the heading "Of the Duty on Timber," by the Forest Act, 1890 (V of 1890), s. 17 (*1*), printed, *infra*, p. 115.

[4] For instance of duty so imposed, *see* Burma Gazette, 1888, Pt. I, p. 548.

[5] These words in s. 39 were inserted by the Forest Act, 1890 (V of 1890), s. 17 (*2*).

[6] Read now 'Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

(*Chap. V.—Of the Duty of Timber and other Forest-produce. Secs. 40-42*
Chap. VI.—Of the Control of Timber and other Forest-produce in Transit. Sec. 43.)

value for *ad valorem* duty.

Chief Commissioner [1] may, by like notification,[2] fix the value on which such duty shall be assessed.

Duty on certain timber floated down the Attaran.

40. On all teak timber cut within the limits of the Attaran forest and floated down the Attaran river, duty shall be levied at the following rates, that is to say :—

	Rs.	A.	P.	
On logs above five feet in girth . . .	4	0	0	per log.
Ditto below „ „ . . .	2	0	0	„
On stem pieces	0	9	0	per piece.
On ship crooks	0	4	0	per crook.

These rates shall not apply to timber for which special rates have been fixed by any agreement entered into with Government.

Power to exempt timber or other forest-produce from duty.

41. The Chief Commissioner [1] may exempt any timber [3][or other forest produce] from the duty to which it is liable under section 39 or section 40, and revoke such exemption.

Provisions of Chapter not to limit purchase-money or royalty.

42. Nothing in this Chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber [3][or other forest-produce].

CHAPTER VI.

[Of the Control of timber and other Forest-produce in Transit][4]

Power to make rules to regulate transit of timber or other forest-produce.

43. The control of all rivers and their banks as regards the floating of timber as well as the control of all timber [5][or other forest-produce], in transit by land or water, is vested in the Chief Commissioner,[1] and he may make rules [6] to regulate the transit of all timber [5][or other forest-produce].

Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber [5][or other forest-produce] may be imported into, exported from or moved within, British Burma[7] ;

[1] *See* second note on p. 110, *supra*.

[2] For notification imposing such a duty, *see* Notification No. 154, *Burma Gazette*, 1888, Pt. I, p. 548.

[3] These words in ss. 41 and 42 were inserted by the Forest Act, 1890 (V of 1890), s. 17 (*2*), printed, *infra*, p. 230.

[4] This heading to Ch. VI was substituted for the heading "Of the Control of Timber in Transit", by the Forest Act, 1890 (V of 1890), s. 17 (*1*), printed, *infra*, p. 230.

[5] These words were inserted by the Forest Act, 1890 (V of 1890), s. 17 (*3*).

[6] For rules made under clauses (*g*) and (*h*) of this section, *see* Burma Gazette, 1896, Pt. I, pp. 558 and 600.

[7] Read now "Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

(*b*) prohibit the import and export or moving of such timber [1][or other forest-produce] without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass :

(*c*) provide for the issue, production and return of such passes ;

(*d*) fix, or authorize any Forest-officer to fix, subject to the control of the Chief Commissioner,[2] the fees payable for such passes ;

(*e*) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof, or not acting on behalf of such owner or of the Government ;

(*f*) provide for the stoppage, reporting, examination and marking of timber [1][or other forest-produce] in transit in respect of which there is reason to believe that any money is payable to Government, or to which it is desirable, for the purposes of this Act, to affix a mark ;

(*g*) establish, or authorize any Forest-officer to establish, subject to the control of the Chief Commissioner,[2] [revenue-stations][3] to which such timber [1][or other forest-produce] shall be taken by those in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it ; and the conditions under which such timber [1][or other forest-produce] shall be brought to, stored at, and removed from, such [3][revenue-stations] ;

(*h*) provide for the management and control of such [3][revenue-stations], and for regulating the appointment and duties of persons employed thereat ;

(*i*) authorize the transport of timber the property of Government across any land, and regulate the compensation to be paid for any damage done by the transport of such timber ;

(*j*) prohibit the closing up, or obstruction of, the channel or banks of any river used for the transit of timber [1][or other forest-produce], and the throwing of grass, brushwood, branches and leaves into any such river, or any other act which tends to cause the obstruction of such channel ;

[1] These words were inserted by the Forest Act, 1890 (V of 1890), s. 17 (*3*), printed, *infra*, p. 230.

[2] *See* the second note on p. 110, *supra*.

[3] The words "revenue-stations" in clauses (*g*) and (*h*) were substituted for the words "stations," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal, from the person, or by the sale of any timber [1][or other forest-produce], causing such obstruction;

(*l*) prohibit absolutely, or subject to conditions within specified local limits, the establishment of saw-pits, the converting, cutting burning, concealing, marking or super-marking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

(*m*) regulate the use of property-marks for timber, and the registration of such marks; declare the circumstances in which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

[2] [The Chief Commissioner [3] may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.]

Penalties for breach of rules made under section 43.

44. The Chief Commissioner [3] may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

All persons bound to aid in case of accident at revenue-station.

45. In case of any accident or emergency involving danger to any property at any such [4] [revenue-station], every person employed at such [4] [revenue-station], whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

[1] *See* foot-note 1 on preceding page.
[2] This para. was added by the Forest Act, 1890 (V of 1890), s. 17 (*d*), printed, *infra*, p. 230.
[3] *See* second note on p. 110, *supra*.
[4] The words "revenue-station" were substituted for the word "station", by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

CHAPTER VII.

OF THE COLLECTION OF DRIFT, STRANDED AND OTHER TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved.

46. All timber found adrift, beached, stranded or sunk,

all timber bearing marks which have not been registered under rules made under section 43,

all timber which has been supermarked, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and

in such areas as the Chief Commissioner [1] directs, all unmarked timber,[2]

shall be deemed to be the property of Government unless and until any person establishes his right thereto as provided in this Chapter.

Power to collect the same.

Such timber may be collected by any Forest-officer or other person entitled to collect the same, and may be brought to such stations [3] as a Forest-officer specially empowered in this behalf may from time to time notify as stations for the reception of drift-timber.

The Chief Commissioner [1] may, by notification in the official Gazette, exempt [4] any class of timber from the provisions of this section, and withdraw such exemption.

Notice to claimants of drift-timber.

47. Public notice shall from time to time, as occasion may require, be given by a Forest-officer specially empowered in this behalf of timber collected, under section 46.

Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to such timber.

48. When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

[1] *See* the second note on p. 110, *supra*.

[2] For notification referring to unmarked timber, *see* Notification No. 96, Burma Gazette, March, 1895, Pt. I, p. 112.

[3] For instances of stations notified as drift-stations, *see* notifications noted on p. 144 of the Burma Laws List, Ed. 1897.

[4] For exemption from these provisions, *see* Notification No. 119, Burma Gazette, March, 1896, Pt. I, p. 165.

On rejection of claim to such timber claimant may institute suit.

Any person whose claim has been rejected under this section may [1][within three months] from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Disposal of unclaimed timber.

49. If no statement is presented in the manner and within the period prescribed by the notice issued under section 47, or where, such statement having been so presented, and the claim having been rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 48, the ownership of such timber shall vest in the Government free from all incumbrances; or, when such timber has been delivered to another person under section 48, in such other person, free from all incumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer, or other person entitled to receive it, such sum on account thereof as may be due for salving, collecting, moving, storing and disposing of the same.

Power to make rules and prescribe penalties.

51. The Chief Commissioner [2] may make rules to regulate the following matters (namely) :—

(*a*) the salving, collection and disposal of all timber mentioned in section 46;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amount to be paid for salving, collecting, moving, storing and disposing of such timber; and

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

The Chief Commissioner [2] may, by such rules, prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

[1] These words were substituted for the words "within two months," by the Forest Act, 1890 (V of 1890), s. 18, printed, *infra*, p. 230.

[2] *See* the second note on p. 110, *supra*.

CHAPTER VIII.

Penalties and Procedure.

Seizure of property liable to confiscation.

52. When there is reason to believe that a forest-offence has been committed in respect of any timber or forest-produce, such timber or produce, together with all tools, boats, carts and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Report to Magistrate.

Every officer seizing any property under this section shall place on such property or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the timber or forest-produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

53. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Timber forest-produce, tools, etc., when liable to confiscation.

54. When any person is convicted of a forest-offence, all timber or forest produce in respect of which such offence has been committed, and all tools, boats, carts and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

55. When the trial of any forest-offence is concluded, any timber or forest-produce in respect of which such offence has been committed shall, if it is the property of Government, or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf; and in any other case may be disposed of in such manner as the Court may order.

Procedure when offender not known or cannot be found.

56. When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same:

Provided that no such order shall be made until the expiration of one

month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall either cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

Procedure as to perishable property seized under section 52.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal from orders under sections 54, 55 and 56.

58. Any person claiming to be interested in property seized under section 52 may, within one month from the date of any order passed under section 54, section 55 or section 56, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government.

59. When an order for the confiscation of any property has been passed under section 54 or 56, and the period limited by section 58 for presenting an appeal from such order has elapsed and no such appeal has been presented or when, on such an appeal being presented the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Chief Commissioner[1] from directing at any time the immediate release of any property seized under section 52 and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

61. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Any fine so imposed, or any portion thereof, shall, if the convicting Magistrate so direct, be given as compensation to the person aggrieved by such seizure.

Penalty for

62. Whoever, with intent to cause damage or injury to the public or to

[1] *See* the second note on p. 110, *supra*.

any person, or to cause wrongful gain as defined in the Indian Penal Code,[1] counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

LV of 1860.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest-officers, or

(*c*) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest-officer, or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which any provisions of this Act apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

63. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case [2][or to the officer in charge of the nearest police-station].

Power to prevent commission of offence.

64. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Operation of other laws not barred.

65. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made hereunder :

Provided that no person shall be punished twice for the same offence.

Power to

[3]**66.** (*1*) The Chief Commissioner [4] may, from time to time, by notifica-

[1] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

[2] These words were added by the Forest Act, 1890 (V of 1890), s. 19, printed, *infra*, p. 230.

[3] This section was substituted for the original section, by the Forest Act, 1890 (V of 1890), s. 20.

[4] *See* the second note on p. 110, *supra*.

compound offences.

tion in the official Gazette, empower[1] a Forest-officer by name, or as holding an office,—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(*3*) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees; and the sum of money accepted as compensation under sub-section (*1*), clause (*a*), shall in no case exceed the sum of fifty rupees.

Presumption that timber or forest-produce belongs to Government.

67. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any timber or forest-produce is the property of the Government, such timber or produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER IX.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

68. Cattle trespassing in a reserved forest or in a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871,[2] and may be seized and impounded as such by any Forest-officer or Police-officer. 1 of 1871.

Power to alter fines fixed by that Act.

69. The Chief Commissioner[3] may, by notification[4] in the official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section

[1] For officers appointed to compound offences under this Act, *see* notifications noted on p. 144 of the Burma Laws List, Ed. 1897.

[2] Printed, General Acts, Vol. II, p. 183.

[3] *See* the second note on p. 110, *supra*.

[4] For notification fixing fines to be levied under this section, *see* Burma Gazette, 1883, Pt. I, p. 12.

68 of this Act such fines as he thinks fit, but not exceeding the following (that is to say) :—

	Rs.	A.
For each elephant	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	0	8

CHAPTER X.

Of Forest-officers.

Chief Commissioner may invest Forest-officer with certain powers.

70. The Chief Commissioner [1] may invest [2] any Forest-officer by name, or as holding an office, with the following powers (that is to say) :—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880 [3] ; V of 1880.

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to issue search-warrants under the Code of Criminal Procedure ;[4]

(*d*) power to hold enquiries into forest-offences, and in the course of such enquiries to receive and record evidence ;

(*e*) power to notify seasons and manner in which fire may be kindled, kept or carried in a reserved forest ;

(*f*) power to grant any permission referred to in section 27, 32, 36 or 38 ;

(*g*) power to notify stations for the reception of drift timber ;

(*h*) power to give public notice of timber collected under section 46 ;

(*i*) power to take possession of property under this Act ;

(*j*) power to direct the release of property or withdrawal of charges ;

(*k*) [*power to accept compensation for forest-offences.*] *Repealed by the Forest Act, 1890 (Act V of 1890), s. 21* ;

and may withdraw any powers so conferred.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate of the alleged offender :

Provided that it has been taken in the presence of the accused person, and

[1] *See* the second note on p. 110, *supra*.

[2] For instance of officers being empowered to exercise certain powers, *see* Notification No. 387, Burma Gazette, 1895, Pt. I, p. 531.

[3] Printed, *supra*, p. 77.

[4] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

recorded in the manner provided by section 333, section 334 or section 335 of the Code of Criminal Procedure.[1]

Forest-officers deemed public servants.

71. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.[2] XLV of 1860.

Indemnity for acts done in good faith.

72. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith[3] under this Act.

Forest-officers not to trade.

73. Except with the permission in writing of the Chief Commissioner,[4] no Forest-officer shall, as principal or agent, trade in timber or forest-produce or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or Foreign territory.

CHAPTER XI.

MISCELLANEOUS.

Additional powers to make rules.

74. The Chief Commissioner[4] may make rules consistent with this Act—

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer shall be exercised or performed;

(*b*) to regulate the procedure of Forest-Settlement-officers;

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the public treasury; and,

(*d*) generally, to carry out the provisions of this Act.

Rules when to have force of law.

75. All rules made by the Chief Commissioner[4] under this Act shall be published in the official Gazette, and shall thereupon have the force of law.

Powers of Chief Commissioner exercisable from time to time.

All powers conferred by this Act on the Chief Commissioner[4] may be exercised from time to time as occasion requires.

Persons bound to assist Forest-officers and Police-officers.

76. Every person who exercises any right in a reserved forest or a village-forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle or to practise toungya cultivation in, such forest, and every person who is employed by any such person in such forest, and

[1] *See* now ss. 354, 355 and 356 of the Code of Criminal Procedure, 1898 (V of 1898), printed, General Acts, Vol. VI, p. 380.

[2] *See* now the revised edition modified up to July, 1899, published by the Legislative Department.

[3] For definition of "good faith," *see* the General Clauses Act, 1897 (X of 1897), s. 3 (*20*). Printed, General Acts, Vol. VI, p. 316.

[4] *See* the second note on p. 110, *supra*.

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence; and shall assist any Forest-officer or Police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Recovery of money due to Government.

77. All money, other than fines, payable to the Government under this Act, or under any rule made hereunder, or on account of the price of any timber or forest-produce, or of expenses incurred in the execution of this Act in respect of such timber or forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Lien on forest-produce for such money.

78. When any such money is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce; and such produce may be taken possession of by a Forest-officer specially empowered in this behalf, and may be retained by him until such amount has been paid.

Power to sell such produce.

If such amount is not paid when due, such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Government and its officers not liable for loss or damage in respect of certain timber.

79. The Government shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a rule made under section 43, or while detained elsewhere for the purposes of this Act, or in respect of any timber collected under section 46; and no Forest-officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

80. Whenever it appears to the Chief Commissioner[1] that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870,[2] section 4. X of 1870.

Recovery of penalties due under bond.

[3] **81.** When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872,[4] be recovered from him in case of such breach as if it were an arrear of land-revenue. IX of 1872

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by the Repealing and Amending Act, 1891 (XII of 1891).[5]

THE BURMA STEAM-BOILERS AND PRIME-MOVERS ACT, 1882.

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[1] *See* the second note on p. 110, *supra*.

[2] *See* now the Land Acquisition Act, 1894 (I of 1894). Printed, General Acts, Vol. VI, p. 100.

[3] Section 81 was added by the Forest Act, 1890 (V of 1890), s. 22, printed, *infra*, p. 230.

[4] Printed, General Acts, Vol. II, p. 299.

[5] Printed, General Acts, Vol. VI, p. 32.

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ACT No. XVIII OF 1882.[1]

[APPLIES TO LOWER AND UPPER BURMA.]

[*18th August, 1882.*]

An Act to provide for the inspection of Steam-boilers and Prime-movers attached thereto in British Burma.[2]

Preamble.

WHEREAS it is expedient to provide in British Burma[2] for the inspection of steam-boilers and prime-movers attached thereto, and for the management of the same by competent engineers; It is hereby enacted as follows:—

Short title.

1. (*1*) This Act may be called the Burma Steam-boilers and Prime-movers Act, 1882.

Commencement.

(**2**) It shall, except where it is otherwise expressed, come into force on such day as the Chief Commissioner[3] of British Burma,[2] with the previous

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1882, Pt. V, p. 768; for Proceedings in Council, *see ibid*, Supplement, pp. 134, 204 and 1108.

The Act has been declared in force in Upper Burma generally (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra*, p. 266.

[2] Read now Lower Burma, *see* the Burma Laws Act, 1898, (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; and all powers and duties conferred and imposed on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898). *Infra*, p. 265.

sanction of the Governor General in Council, may, by notification in the British Burma Gazette,[1] direct.[2]

Local extent.

(*3*) It extends in the first instance only to the towns of Rangoon, Moulmein, Akyab and Bassein: but the Chief Commissioner[3] may from time to time, by notification in the British Burma Gazette,[1] extend[4] it, from such date as may be specified in the notification, to any other local area in the territories administered by him.

Savings.

(*4*) Nothing in this Act shall apply to any locomotive engine used on a railway, or to any engine on board of a ship, launch or boat.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

"boiler" includes any vessel used for generating steam under pressure;

"prime-mover" includes any steam-engine, and a fly-wheel, first driving shaft or pulley when attached to any such engine:

"owner" includes also any person using any boiler or prime-mover as agent of the owner thereof, and any person using a boiler or prime-mover which he has hired from the owner thereof:

Appointment of Inspectors.

"Inspector" means a person appointed under this Act to be an Inspector.

3. (*1*) The Chief Commissioner[3] may, at any time after the passing of this Act, and from time to time, appoint such persons to be Inspectors as he thinks fit, and suspend or remove any person so appointed.

(*2*) The person so appointed shall, within such local area as the Chief Commissioner[3] may from time to time direct, exercise the powers and perform the duties conferred and imposed by or under this Act on an Inspector.

Examination of, and grant of certificates to, engineers or engine-drivers.

4. The Chief Commissioner[3] may, at any time after the passing of this Act and from time to time, make rules regulating[5] the examination of, and the grant (with or without examination) of certificates to, persons to act as engineers of the first or second class[6] [or as engine-drivers] under this Act, and the cancellation of certificates so granted.

[1] Read now "Burma Gazette", *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

[2] This Act came into force on the 1st February, 1883, *see* Burma Gazette, 1882, Pt. I, p. 614.

[3] *See* the third note on preceding page.

[4] For instance of such extension *see* Burma Gazette, 1898, Pt. I, p. 83; *ibid*, 1899, Pt. I, p. 403.

[5] For rules, *see* Burma Gazette 1898, Pt. I, p. 84.

[6] These words were inserted by the Burma Prime-movers and Steam-boilers Act, 1885 (I of 1885), s. 2, *infra*, p. 172.

Use of boiler or prime-mover without license prohibited.

5. (*1*) After such day as the Chief Commissioner [1] may, by notification in the British Burma Gazette,[2] fix in this behalf, a boiler or prime-mover shall not be used unless a license [3] authorizing its use has been granted under this Act and is in force.

(*2*) Such a license shall not be granted in respect of a boiler or prime-mover unless it is in charge of an engineer, [4][or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver,] to whom a certificate has been granted in accordance with the rules made under section 4 and its condition has been ascertained as hereinafter provided.

On notice from owner, Inspector to examine boiler or prime-mover.

6. (*1*) When the owner of a boiler or prime-mover desires to obtain a license in respect thereof, he shall give notice of his intention to use the boiler or prime-mover to the Inspector for the local area within which it is situate.

(*2*) On receipt of the notice, the Inspector shall appoint a day and time, after sunrise and before sunset, for the inspection of the boiler or prime-mover. The day so appointed shall be a day, if the boiler or prime-mover is situate in the town of Rangoon, Maulmain, Akyab or Bassein, not later than seven days, and, if it is situate elsewhere, not later than thirty days, from the day on which the notice is received.

(*3*) On the day and at the time so appointed, the Inspector shall carefully examine the boiler or prime-mover, and every part thereof; and the owner or person in charge thereof shall afford to the Inspector all reasonable facilities for the examination, and all such information regarding the boiler or prime-mover, as he may reasonably require.

Inspector may require owner to alter boiler or prime-mover.

7. If, on making the examination under section 6, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall refuse to grant a license until the alteration or addition is made, and shall serve on the owner of the boiler or prime-mover a written notice of his refusal, specifying the alteration or addition which, in his opinion, is required.

When Inspector to grant license.

8. When the Inspector is satisfied—

(*a*) that the boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous, and

(*b*) that the boiler or prime-mover is in charge of an engineer, [4][or in the case of a boiler or prime-mover attached to an engine of not more than

[1] *See* third note on p. 129, *supra*.

[2] Read now Burma Gazette, *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898). Printed, *infra*, p. 245.

[3] For notification fixing a date after which a license is necessary, *see* Burma Gazette, 1883, Pt. I, p. 278.

[4] These words were inserted by the Burma Prime-movers and Steam-boilers Act, 1885 (I of 1885), s. 3, *infra*, p. 172.

twenty horse-power of an engineer or engine-driver,] to whom a certificate has been granted in accordance with the rules made under section 4,

he shall give to the owner thereof a written license, signed by him in the form prescribed in the first schedule hereto annexed, or a form to the like effect, on payment, by the owner, of such fee as the Chief Commissioner [1] may by rule prescribe.

Licensing of boilers, etc., in charge of certain engineers.

9. (*1*) When a boiler or prime-mover is in charge of an engineer who has obtained, in accordance with the rules made under section 4, a certificate as engineer of the first class, the Chief Commissioner [1] may, by an order in writing, direct that the report of that engineer shall for the purpose of granting a license under this Act in respect of that boiler or prime-mover, be received as sufficient evidence of the matters referred to in section 8, clause (*a*).

(*2*) The Chief Commissioner [1] may rescind any order made under clause (*1*).

(*3*) If the owner of any boiler or prime-mover, in respect of which an order under clause (*1*) is in force, presents to the Inspector, at the time of giving notice in respect of that boiler or prime-mover under section 6, a report in respect of that boiler or prime-mover in the form prescribed in the second schedule hereto annexed, or a form to the like effect, and signed by the engineer mentioned in the order, and pays to the Inspector such fee as aforesaid, the Inspector shall, notwithstanding anything hereinbefore contained, endorse on the report a license in the form prescribed in the third schedule hereto annexed, or a form to the like effect, without examining the boiler or prime-mover.

License to state period for which it is to be in force.

10. Every license granted under this Act shall state the period for which it is to continue in force, and shall cease to be in force on the expiration of that period.

Revocation or suspension of license.

11. Any person authorized [2] by the Chief Commissioner [1] in this behalf may revoke or suspend any license granted under this Act in respect of any boiler or prime-mover when he has reason to believe—

(*a*) that the license has been fraudulently obtained, or has been granted erroneously, or without sufficient examination; or

(*b*) that the boiler or prime-mover in respect of which it has been granted is not in charge of an engineer, [3] [or in the case of a boiler

[1] *See* the third note on p. 129, *supra*.

[2] For notification authorizing persons to suspend and revoke licenses, *see* Burma Gazette, 1883 Pt. I, p. 109.

[3] These words were inserted by the Burma Steam-boilers and Prime-movers Act, 1885 (I of 1885), s. 5, *infra*, p 172.

or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver,] to whom a certificate has been granted in accordance with the rules made under section 4, or is not in good condition, or has since the granting of the license, sustained injury; or,

(*c*) where the license has been granted under section 9, that the boiler or prime-mover has ceased to be under the charge of the engineer on whose report the license was granted.

Appeal against refusal, revocation or suspension of license.

12. (*1*) The owner of any boiler or prime-mover may appeal from any order made under this Act refusing to grant, or revoking or suspending, a license.

(*2*) The appeal shall, within seven days from the day on which the owner received the order appealed against, be presented to some person authorized [1] by the Chief Commissioner [2] to hear appeals hereunder.

(*3*) Every such person shall be deemed to be a public servant within the meaning of the Indian Penal Code,[3] and may, if he thinks fit, summon to his assistance, in such manner as the Local Government may from time to time direct, two competent assessors; and those assessors shall attend and assist accordingly.

XLV of 1860.

(*4*) If the person hearing the appeal is satisfied that the owner is entitled to the license, he shall, on payment of the fee, grant a license in such form as the Chief Commissioner,[2] may from time to time, by rule prescribe, or shall cancel the order revoking or suspending the license, as the case may be.

(*5*) If the person hearing the appeal is of opinion that the order appealed against is right, he shall dismiss the appeal; and the costs of the appeal incurred by Government and certified by him shall be recoverable from the appellant, as a fine, by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situate.

Power of Inspector to enter place or building.

13. An Inspector may at any time enter into any place or building where he has reason to believe that a boiler or prime-mover is used without a license or under a license granted under section 8, or on appeal from an order refusing a license under that section, for the purpose of inspecting and examining the same.

Penalties.

14. Every owner, or person in charge, of any boiler or prime-mover who—

(*a*) uses that boiler or prime-mover in contravention of the provisions of section 5, or,

[1] For notification authorizing Deputy Commissioners to hear appeals from inspectors, *see* Burma Gazette, 1897, Pt. I, p. 65.

[2] *See* the third note on p. 129, *supra*.

[3] *See* the revised edition as modified up to July, 1898, published by the Legislative Department.

(*b*) having a license granted under this Act and in force in respect of any boiler or prime-mover, fails to produce the same when called upon, at any reasonable time to do so, by any Magistrate having jurisdiction in the place in which that boiler or prime-mover is situate, or by any person authorized in writing by that Magistrate to demand the production of the license, and,

every person who prevents an Inspector from entering, under section 13, any place or building,

shall be punished with fine which may extend to five hundred rupees.

Engineer signing false report under section 9.

15. Any engineer signing any report under section 9 which he either knows or believes to be false in any material point shall be deemed to have committed an offence punishable under section 197 of the Indian Penal Code.[1] XLV of 1860.

Charges not to be brought after six months, or without Inspector's sanction.

16. No charge of an offence under this Act shall be brought against any person without the previous sanction of an Inspector, or after the expiration of six months from the date of the commission of the offence.

Power to define limits of towns.

17. The Chief Commissioner[2] may from time to time define what shall be deemed to be, for the purposes of this Act, the local limits of the towns of Rangoon, Maulmain, Akyab and Bassein respectively.[3]

Power to make rules.

18. The Chief Commissioner[2] may, at any time after the passing of this Act, and from time to time, make rules[4] consistent with this Act for all or any of the following purposes (that is to say),—

(*a*) for prescribing the powers and duties of Inspectors;

[5][(*aa*) for delegating to Commissioners all or any of the powers[6] conferred upon him by sections 3 and 9].

(*b*) for fixing the fees payable on account of licenses granted under this Act;

(*c*) for determining the time for which such licenses shall be in force;

(*d*) for regulating the procedure on hearing appeals, and conferring on the persons authorized to hear appeals any of the powers conferred on a Civil Court by the Code of Civil Procedure[7]; and, XIV of 1882.

(*e*) generally for carrying out the purposes of this Act.

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

[2] *See* the third note on p. 129, *supra*.

[3] For notifications defining the local limits of the towns of Rangoon, Akyab and Bassein, *see* Burma Gazette, 1883, Pt. I, p. 109; *ibid*, 1899, Pt. 2, p. 403.

[4] For rules made under this section, *see* Burma Gazette, 1898, Pt. I, p. 87; *ibid*, p, 356.

[5] Clause (*aa*) was inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

[6] For rules made in exercise of this power, *see* Burma Gazette 1898, Pt. I, p. 568.

[7] Printed, General Acts, Vol. IV, p. 262.

All such rules shall be published thrice in the British Burma Gazette,[1] and shall come into force on the day on which they are last so published, or on such later day as may be specified in the notification publishing them.

FIRST SCHEDULE.

(*See section 8.*)

FORM OF LICENSE.

1	2	3	4	5	6	7	8	9
Name of owner.	Description of boiler.	Description of prime-mover.	Power.	When and where made.	When and where last repaired.	No. and date of certificate of engineer in charge.	Period for which license is to be in force.	REMARKS.

I, the undersigned, certify that I have examined the boiler (or prime-mover) above described, and, to the best of my judgment, it is in good condition, and is not so exposed as to be likely to be dangerous. The engineer in charge is possessed of a certificate [and (*in case alterations or additions have been required*) the alterations (or additions) required by me have been properly made].

A. B.,
Inspector.

SECOND SCHEDULE.

(*See section 9.*)

REPORT OF ENGINEER.

1	2	3	4	5	6	7	8
Name of owner.	Description of boiler.	Description of prime-mover.	Power.	When and where made.	When and where last repaired.	No. and date of certificate of engineer-in charge.	REMARKS.

I, the undersigned, certify that I am in charge of the boiler (or prime-mover) above described, that I have examined the same, and, to the best of my judgment, it is in good condition, and is not so exposed as to be likely to be dangerous, and may safely be licensed for the period of .

C. D.,
Engineer.

[1] Read now "Burma Gazette," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 245.

THIRD SCHEDULE.

(*See section 9.*)

FORM OF LICENSE TO BE ENDORSED ON REPORT OF ENGINEER.

I, the undersigned, hereby authorize the use of the boiler (or prime-mover) to which this report refers for a period of ending on the day of 188

A. B.,
Inspector.

ACT No. VIII OF 1883.[1]

[APPLIES TO LOWER BURMA ONLY.]

[*19th April, 1883.*]

An Act to amend the law in force in the Little Cocos Island and Preparis Island.

Preamble.

WHEREAS the Little Cocos Island and Preparis Island have been transferred to the administration of the Chief Commissioner[2] of British Burma,[3] and attached to the Hanthawaddy District of the Pegu Division of British Burma;[3]

And whereas the Little Cocos Island, when subject to the administration of the Chief Commissioner and Superintendent of the Andaman and Nicobar Islands, formed portion of a scheduled district under the Scheduled Districts Act, 1874,[4] and was subject to the operation of the Andaman and Nicobar Islands Regulation, 1876; XIV of 1874. III of 1876.

And whereas it is expedient that the law in force in the Little Cocos Island and in the Preparis Island should be the same as that in the Hanthawaddy District of the Pegu Division of British Burma;[3]

It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Little Cocos and Preparis Islands Laws Act, 1883: and it shall come into force on the passing thereof.

Declaration of laws to be in force in Little Cocos and Preparis Islands.

2. All enactments which, on the twenty-ninth day of November, 1882, were in force in the Hanthawaddy District of the Pegu Division of British

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1883, Pt. V, p. 79; for Proceedings in Council, *see ibid*, Supplement, p. 209.

[2] The Chief Commissioner is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261; and all powers and duties conferred and imposed on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898). Printed, *infra*, p. 265.

[3] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, *infra*, p. 262.

[4] Printed, General Acts, Vol. II, p. 466.

Burma[1] shall be deemed to have come into force in the Little Cocos and Preparis Islands on that day; and all enactments which, on that day were in force in those Islands and not in that District, shall be deemed to have been repealed on and from that day in those Islands.

3. [*Provision as to pending proceedings.*] *Rep. by the Repealing and Amending Act, 1891 (Act XII of 1891).*[2]

4. On and from the twenty-ninth day of November, 1882, the Little Cocos Island shall be deemed to have been removed from the operation of the III of 1876. Andaman and Nicobar Islands Regulation, 1876, and to have ceased to be a scheduled district.

Withdrawal of Little Cocos Island from Andaman and Nicobar Islands Regulation, 1876, and Scheduled Districts Act, 1874.

THE BRITISH BURMA[1] PILOTS ACT, 1883.

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[1] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), *s.* 7, *infra*, p. 262.

[2] Printed, General Acts, Vol. VI, p. 32.

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ACT No. XII OF 1883.[1]

[APPLIES TO LOWER BURMA ONLY.]

[*29th August, 1883.*]

An Act to provide for the licensing and control of pilots in British Burma[2] and for investigating certain charges against them.

Preamble. WHEREAS it is expedient to provide for the licensing and control of pilots in British Burma[2] and for investigating certain charges against them; It is hereby enacted as follows :—

Preliminary.

Short title. **1.** (*1*) This Act may be called the British Burma[2] Pilots Act, 1883.

Local extent. (*2*) It extends to the territories for the time being administered by the Chief Commissioner[3] of British Burma[2] and

Commencement. (*3*) It shall come into force on such date[4] as the Chief Commissioner[3] may fix in this behalf.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1883, Pt. V, p. 802; for Proceedings in Council, *see ibid*, Supplement, pp. 135, 183, and 1597.

[2] Read now "Lower Burma," *see* Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] The Chief Commissioner is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p 261; and all powers and duties conferred and imposed on the Chief Commissioner are to be deemed to have been conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

[4] The Act came into force on the 1st September, 1884, *see* Burma Gazette, 1884, Pt. I, p. 188.

2. In this Act— Definition of "port."

"port" means any port, or any part of a navigable river or channel in which the Indian Ports Act, 1875,[1] is for the time being in force. XII of 1875.

Licensing of Pilots.

3. The Chief Commissioner[2] may from time to time appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules[3]— Licensing of pilots.

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and,

(*d*) for the fees to be paid for the examinations and licenses.

4. (*1*) A person shall not act as a pilot at any port, after such date[4] as the Chief Commissioner[2] may fix in this behalf for that port, except as permitted by a license granted under section 3. No person to act as pilot except under license.

(*2*) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.

Regulation of Pilots.

5. (*1*) The Chief Commissioner[2] may from time to time, by notification in the British Burma Gazette,[5] make rules[3] to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots. Power to make rules to regulate conduct of pilots.

(*2*) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to

[1] *See* now the Indian Ports Act, 1889 (X of 1889), printed, General Acts, Vol. V, p. 297.

[2] *See* the third note on p. 138.

[3] For rules issued under these sections in conjunction with ss. 10, 11, 16 and 18 for the ports of Rangoon, Akyab and Maulmain, *see* notifications noted on pp. 171 and 173 of the Burma Laws List, Ed. 1897, and for Bassein, *see* Burma Gazette, 1897, Pt. I, p. 557.

[4] For notification fixing such dates for ports in Burma, *see* Burma Laws List, Ed. 1897, p. 178.

[5] Read now "Burma Gazette," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 262.

one month, or with fine which may extend to two hundred rupees, or with both :

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner [1] may from time to time appoint in this behalf.

Special Court.

Power to direct investigation by special Court into charges against pilots.

6. (*1*) If the Chief Commissioner [1] has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary Court, he may direct that a special Court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the Court a statement of the grounds of the charge, and direct the Court to make an investigation into the charge.

(*2*) When the Chief Commissioner [1] directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.

Constitution of Court.

7. Every Court constituted under section 6 shall consist of a president sitting with three assessors.

Appointment of president.

8. (*1*) The president shall be such person as the Chief Commissioner [1] appoints in this behalf, either generally or for any specified case.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.[2] XLV of 1860.

Assessors.

9. One of the assessors shall be a master of a seagoing vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.

Appointment of assessors.

10.[3] (*1*) The assessor who is the master of a seagoing vessel shall be appointed in each case by the Chief Commissioner,[1] and shall be summoned by the president.

(*2*) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists,[4] one of merchants, the

[1] *See* the third note on p. 138, *supra*.

[2] *See* now the Act as modified up to July, 1899, published by Legislative Department.

[3] For rules issued under ss. 10 and 11 in conjunction with ss. 3, 5, 16 and 18 for the ports of Rangoon, Akyab and Maulmain, *see* notifications noted on pp. 171 and 173 of the Burma Laws List, Ed. 1897, and for the port of Bassein, *see* Burma Gazette, 1897, Pt. I, p. 557.

[4] For notifications publishing such lists, *see* those noted on p. 173 of the Burma Laws List, Ed. 1897.

other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner [1] in the British Burma Gazette.[2] If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of whom is named in the list of merchants and the other in the list of pilots, the other assessors or assessor, as the case may be, shall be appointed and summoned by the president.

Fees to be paid to assessors.

11.[3] The assessors shall receive such fees as the Chief Commissioner [1] may from time to time, by rule, prescribe.

Copy of grounds of charge to be supplied to pilot.

12. Before any investigation under this Act is commenced the special Court shall supply the pilot with a copy of the statement sent, under section 6, to the Court.

Person charged to be heard.

13. For the purpose of an investigation under this Act the special Court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.

Powers of the Court as to evidence and regulating proceedings.

14. For the purpose of an investigation under this Act the special Court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents and the regulation of the proceedings, have the same powers as are exerciseable by the principal Court of original criminal jurisdiction for the place at which the investigation is made.

Court to report to Chief Commissioner.

15. On the completion of the investigation, the special Court shall send to the Chief Commissioner [1] a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the Court, or, if the Court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.

Power of Chief Commissioner to make rules.

16.[3] (*1*) The Chief Commissioner [1] may from time to time make rules to carry into effect the provisions of this Act with respect to the special Court and in particular with respect to—

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the Court.

[1] *See* the third note on page 138, *supra*.

[2] Read now "Burma Gazette," *see* Burma Laws Act, 1898 (XIII of 1898), s. 7, printed, *infra*, p. 262.

[3] *See* the third note on p. 140.

(*Power to cancel, suspend or reduce Licenses. Secs. 17-18. Delegation of Functions of Chief Commissioner. Sec. 19.*)

(*2*) All such rules shall be published in the British Burma Gazette[1] and shall thereupon have the force of law.

Power to cancel, suspend or reduce Licenses.

Power to cancel, suspend or reduce license for misconduct, etc.

17. The Chief Commissioner[2] may cancel or suspend, or reduce the grade of any license granted to a pilot under this Act in the following cases, that is to say:—

(*a*) if the pilot is found guilty by a Criminal Court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner,[2] shows him to be unfit to discharge the duties of a pilot; or,

(*b*) if on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883,[3] the Chief Commissioner[2] is of opinion that the pilot is incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act. V of 1883.

Power to suspend license pending trial or investigation.

18.[4] When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under Chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner[2] may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner,[2] as the case may be. V of 1883.

Delegation of Functions of Chief Commissioner.[2]

Power to delegate functions of Chief Commissioner.

19. The Chief Commissioner[2] may from time to time by notification[5] in the British Burma Gazette,[1] delegate his functions under section 6, section 8, section 10, sub-section (*1*), or section 18 to such person as he thinks fit.

[1] Read now "Burma Gazette," *see* Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260.

[2] *See* the third note on p. 138, *supra*.

[3] Printed, General Acts, Vol. IV, p. 644.

[4] For rules issued under this section in conjunction with ss. 3, 5, 10, 11 and 16 for the port of Rangoon, *see* notification noted on p. 171 of the Burma Laws List, Ed. 1897.

[5] The functions of the Chief Commissioner under ss. 6, 8, 10 (*1*) and 18 have been delegated to Commissioners in respect of out ports, *see* Burma Gazette, 1897, Pt. I, pp. 57 and 89.

THE RANGOON TRAMWAYS ACT, 1883.

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THE SCHEDULE.

ACT No. XXII OF 1883.[1]

[APPLIES TO LOWER BURMA ONLY].

[*18th December, 1883.*]

An Act to authorize the making, and to regulate the working, of Street Tramways in Rangoon.

WHEREAS the municipal committee of the town of Rangoon, by an agreement, dated the 22nd day of June, 1882, a copy whereof is set forth in the schedule annexed to this Act, granted, for the considerations therein expressed, to John William Darwood, his heirs, executors, administrators and assigns hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms, subject to the conditions and in the manner mentioned in the said agreement, but the said agreement was made subject to the confirmation thereof by the Chief Commissioner [2] of British Burma[3] and to the recognition thereof by an Act of the Governor General in Council;

and whereas the said agreement was, on the 13th day of November, 1882, confirmed by the Chief Commissioner [2] of British Burma [3]; and it is now expedient to recognise it and give effect to it, subject to the provisions and limitations hereinafter contained;

It is hereby enacted as follows:—

A.—Preliminary.

Short title. Commencement.

1. This Act may be called the Rangoon Tramways Act, 1883; and it shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

[4]["committee" means the committee for the town of Rangoon continued or appointed under the Burma Municipal Act, 1898:] Burma Act III of 1898.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1883, Pt. V, p. 519; for Proceedings in Council, *see ibid*, Supplement, pp. 1294 and 2331.

[2] The Chief Commissioner is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261, and all powers and duties conferred and imposed on the Chief Commissioner are to be deemed to be conferred and imposed on the Lieutenant-Governor, with effect from the 1st May, 1897, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

[3] Read now "Lower Burma," *see* the Burma Laws Act, 1898 (XIII of 1898), s. 4, printed, *infra*, p. 260.

[4] This clause, which is the same as the original clause, save that the figures "1874" have been altered to "1898," and the words "continued or" inserted before the word "appointed," was substituted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *infra*, p. 278.

(*B.—Powers of Grantee generally. Sec. 3. C.—Construction and Maintenance of Tramways and of Streets on which they are laid. Secs. 4-5.*)

"tramway" means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway :

"street" means the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is or is intended to be laid, and includes the surface-soil and sub-soil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street.

B.—Powers of Grantee generally.

Powers to make, maintain and use tramways.

3. Subject to the provisions of this Act, and to the terms and conditions of the said agreement so far as the same are not inconsistent with this Act, the grantee may make, maintain and use any of the tramways for the construction, maintenance and use of which provision is made in the said agreement :

Provided that any such tramway shall not be opened for public traffic until it has been inspected and certified by the engineer to the committee to be fit for such traffic.

C.—Construction and Maintenance of Tramways and of Streets on which they are laid.

Power to grantee to break up streets and lay rails, etc.

4. Subject to the terms and conditions of the said agreement, the grantee may from time to time, for the purpose of constructing, maintaining or renewing any tramway under this Act, open or break up any street, and therein or thereon lay sleepers and rails, and repair, alter or remove the same ; and may, for the purposes aforesaid, do in and on any such street all other acts which may from time to time be necessary for constructing, maintaining or renewing the tramway :

Provided that he shall not, without the consent of the committee, open or break up at any one time a greater length than one hundred yards of any street which does not exceed a quarter of a mile in length ; and in the case of any street exceeding a quarter of a mile in length, he shall leave an interval of at least a quarter of a mile between any two places at which he may open or break up the street, and shall not open or break up at any such place a greater length than one hundred yards :

Grantee to keep tramways and adjoining part of street in repair.

5. The grantee shall at his own expense at all times maintain and keep in good condition and repair, in such manner as the committee from time to time direct, all tramways constructed by him under this Act, and so much of any street as lies between the rails of any such tramway ; and, in the case of

double lines or turnouts or sidings, the portion of the road between the tramways and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

Obligations of grantee when he has broken up street.

6. When the grantee has, for the purposes of section 4 or section 5, opened or broken up any portion of a street, he shall be under the following further obligations, namely :—

(*a*) he shall, with all convenient speed, and in all cases within six weeks at the most, unless the committee otherwise consent in writing complete the work for which the street has been opened or broken up, fill in the ground and make good the surface, and to the satisfaction of the committee, restore the street to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby ;

(*b*) he shall, in the meantime, cause the place where the street is opened or broken up to be fenced and watched, and to be properly lighted at night ; and

(*c*) he shall make good all damage done to drains, sewers, water-pipes and gas-pipes, and to the wires or other materials or things used for any system of lighting, and whether belonging to the committee, to the Government or to private persons, and shall make compensation for any other damage done in the execution of the powers granted to him.

Reservation of power of committee and Government over streets.

7. (*1*) Nothing in this Act shall prevent the committee or any Government officers from opening, breaking up, widening, altering, diverting or improving any street traversed by a tramway for the purposes for which they might otherwise under the law for the time being in force lawfully open, break up, widen, alter, divert or improve such street :

Provided that—

(*a*) they shall cause as little detriment or inconvenience to the grantee as circumstances admit ; and,

(*b*) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee not less than eighteen hours' previous notice of their intention to commence the work specifying the time at which they will commence it.

(2) The committee or officers aforesaid or the Secretary of State for India

in Council shall not be liable to pay to the grantee any compensation for injury done to the tramway by the execution of any work referred to in sub-section (*1*), or for loss of traffic occasioned by the reasonable use of any power lawfully exercised in connection with the same.

D.—Rights over Tramways and Streets on which they are laid.

Grantee's exclusive right over tramways.

8. The grantee shall, subject to the provisions of this Act and to the terms and conditions of the said agreement, have the exclusive use of his tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail:

Provided that nothing in this Act shall affect—

(*a*) the right of the public to pass along or across any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail, or

(*b*) the right of the Commissioners for the port of Rangoon, or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Grantee to have right of user only.

9. Notwithstanding anything in this Act or in the said agreement, the grantee shall not acquire any right other than that of user over any street along or across which he lays any tramway.

Power of committee and Government officers to regulate traffic on streets.

10. Nothing in this Act shall affect the powers of the committee or of any Government officers to regulate the passage of any traffic along or across any street along or across which any tramway is laid down, and the committee or officers aforesaid may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

E.—Traffic on Tramways.

Rates of fares and charges.

11. The grantee may from time to time, by a notice published in such languages and in such manner as the Chief Commissioner[1] may prescribe, fix the rates of fares and charges for carrying passengers and goods in his carriages:

Provided that the rates of passenger fares shall not exceed one anna per mile for each passenger in the lower class and two annas per mile for each passenger in the higher or first class.

[1] *See* the second note on page 144, *supra*.

Mode of payment of fares and charges.

12. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations as the grantee may, by a notice published as aforesaid, from time to time prescribe.

Carriage of dangerous or offensive goods.

13. (*1*) No person shall be entitled to carry or to require to be carried on any tramway constructed under this Act any goods of a dangerous or offensive nature.

(*2*) Every person taking such goods with him on any such tramway shall, before entering the carriage, give notice of their nature to the servant of the grantee in charge of the carriage.

(*3*) Every person sending such goods by any such tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the book-keeper or other servant of the grantee with whom they are left at the time of such sending.

(*4*) The grantee may refuse to take any parcel which he may suspect to contain goods of a dangerous or offensive nature, or require it to be opened to ascertain the fact.

F.—Offences and Penalties.

Penalty for failure of grantee to comply with certain provisions of Act and agreement.

14. If the grantee—

(*a*) constructs or maintains any tramway, or runs any car or carriage thereon, otherwise than in accordance with the said agreement;

(*b*) opens any tramway for traffic before it has been inspected and certified in manner required by section 3;

(*c*) opens or breaks up any street otherwise than as permitted by this Act, or having opened or broken up a street fails to discharge any of the obligations imposed on him by section 6, clauses (*a*) and (*b*); or,

(*d*) fails to keep the rails of any tramway and the portions of the street adjoining the same in repair as required by section 5,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the said agreement or to any other remedy against him) on complaint of the committee or of any person injuriously affected thereby, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first day during which the offence continues to be committed.

Penalty for obstructing grantee in the exercise of his powers.

15. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in constructing, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

16. Any person who without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith ;

(*b*) does anything in such a manner as to obstruct any carriage using any such tramway ; or

XLV of 1860. (*c*) abets within the meaning of the Indian Penal Code[1] the doing of anything mentioned in clause (*a*) or clause (*b*),

shall be punished with fine which may extend to one hundred rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

17. Any person taking or sending by any tramway any goods of a dangerous or offensive nature without giving the notice required by section 13 shall be punished with fine which may extend to fifty rupees.

Penalty for avoiding payment of proper fare.

18. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional fare for the additional distance or attempts to avoid payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Power of servant of grantee to arrest persons avoiding payment of fare.

19. Any servant of the grantee, and any person called in by him for his assistance, may arrest and take to the nearest police-station any person who is discovered either in or after committing or attempting to commit an offence punishable under section 18 and whose name and residence are refused by him and are unknown to such servant or person ; and the police-officer in charge of the police-station, on receiving a complaint that such an offence has been committed, shall adopt such legal measures as may be necessary to cause the accused person to be taken before a Magistrate with the least possible delay.

[1] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

G.—Powers to make Rules.

Powers to make rules.

20. (*1*) The committee in special meeting may, with the sanction of the Chief Commissioner,[1] from time to time, make such rules consistent with this Act as to the rate of speed, number of passengers and mode of use of the tramways, and as to the licensing and control of drivers, conductors and other persons having charge of the carriages of the grantee, as the convenience and safety of the public may, in the opinion of the committee, require.

(*2*) The grantee may, with the like sanction, from time to time, make rules consistent with this Act for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to him, and for regulating the travelling in any carriage belonging to him.

(*3*) The authority making any rule under this section may prescribe as a punishment for the breach of it a fine which may extend to twenty rupees.

(*4*) All rules made under this section shall be published in the British Burma Gazette.[2]

H.—Miscellaneous.

Construction of clause 15 of agreement.

21. For the purpose of clause 15 of the agreement set forth in the schedule annexed to this Act, the want of sufficient funds shall not be deemed to be a circumstance beyond the control of the grantee.

Exemption from certain municipal taxation.

22. The plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the grantee shall, for a period of five years from the passing of this Act, be exempt from all municipal taxation except such lighting and water rates as may from time to time be payable in respect of the yards, workshops, engine-sheds and depôts.

Provisions as to general Acts.

23. Nothing in this Act shall exempt the grantee or any tramway constructed by him under this Act from the provisions of any general enactment[3] relating to tramways now in force or which may hereafter be passed.

And whereas the agreement set forth in the schedule annexed to this Act was executed by the parties thereto under a belief that all the streets specified in the first article thereof as streets along which the construction of tramways was authorized were situate within the municipality of Rangoon, and it now appears that some portion of those streets is not so situate; It is hereby enacted as follows:—

Certain streets to be deemed

24. All streets specified in the first article of the said agreement as streets along which the construction of tramways is authorized shall, for the purposes

[1] *See* the second note on p. 144, *supra*.
[2] Read now Burma Gazette, *see* the Burma Laws Act, 1898 (XIII of 1898), s. 7, *infra*, p. 262.
[3] *See* the Indian Tramways Act, 1886 (XI of 1886), printed, General Acts, Vol. V, p. 73.

of the agreement and of this Act, be deemed to be, and to have been, on and from the date of the agreement, situate within the limits of the municipality of Rangoon. within the Municipality.

THE SCHEDULE.

ARTICLES OF AGREEMENT made this 22nd day of June, 1882, BETWEEN THE MUNICIPAL COMMITTEE OF THE CITY OF RANGOON appointed under the British Burma Municipal Act, 1874,[1] hereinafter called the said committee, of the one part, and JOHN WILLIAM DARWOOD, of Rangoon, hereinafter called the said grantee, of the other part. WHEREAS the said committee have, subject to the confirmation thereof by the Chief Commissioner of British Burma [2] and to the recognition of this agreement by an Act of the Governor General of India in Council, agreed to grant to the said grantee the right to construct, maintain and use a tramway or tramways in Rangoon upon the terms and conditions hereinafter contained, NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said committee to be performed, the said grantee for himself, his heirs, executors, administrators and assigns doth covenant with the said committee, so far as the covenants and conditions hereinafter contained are to be performed by the said grantee and his heirs, executors, administrators and assigns, and the said committee, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantee, his heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantee, his heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said committee in manner following, that is to say :— VII of 1874.

I. The said committee, grant to the said grantee and his heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantee," the right to construct, maintain and use a tramway or tramways, with single or double tracks or lines, and with all necessary sidings, turnouts, connections and lines, or tracks of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said grantee (but in the case of sidings and turnouts, only in such places as the said committee may sanction), on the following routes and between such

[1] The Act relating to municipalities now in force in Rangoon is the Burma Municipal Act, 1898 (Burma Act III of 1898), printed, *infra*, p. 485.

[2] The Chief Commissioner of British Burma is now Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I p. 261.

other places and by such other routes as may be hereafter approved of by the said committee :—

The tramways referred to and now authorized for construction, subject to such confirmation, as aforesaid, are :—

(i) A tramway with a double track or line along China Street and Pagoda Road from Strand Road at its junction with China Street to the Shway Dagone Pagoda.

(ii) A tramway with a double track or line along the Strand Road from East Street to West Street.

(iii) A tramway with a double track or line along Dalhousie Street from East Street to the junction of Dalhousie Street with the Strand Road.

(iv) A tramway with a double track or line along Soolay Pagoda Road from the Strand Road to Montgomery Street and along Montgomery Street to the Phayre Street Railway Station and along Montgomery Road to the iron bridge near the Bázár at Poozoondoung.

(v) A tramway with a double track or line from the Strand Road down Barr Street to Shafraz Road round the Public Buildings back into the Strand Road.

2. When approved of and desired by the said committee, tramways with such tracks or lines as may be approved of by the said committee from East Street to Monkey Point and along the Upper and Lower Poozoondoung Roads to Monkey Point, and along Merchant Street, Fraser Street, and Canal Street and along Lower Kemmendine Road from the Strand Road, Kemmendine, to the junction of West Street with the Strand Road.

3. The said tramway or tramways to be constructed and maintained in such form and manner and upon such gradient and with such gauge as the said committee may approve, and the cars and carriages intended to run on the said rails shall be such as are approved of by the said committee.

4. The cars and carriages of the grantee on the tracks or lines of the said tramway shall, unless with the consent of the said committee, be worked with steam power of the most approved engine of the time only, and the said committee shall have power at all times to make such regulations as to the rate of speed and mode and use of the said tracks or lines as the convenience and safety of the public using the streets may require.

5. The said grantee shall have power from time to time to fix the rate of fares for carrying persons and goods in the cars or carriages to be run on the said tramway or tramways : Provided that the rates of fares shall for any

distance not exceed the rate of one anna per mile for the lower class and two annas per mile for the higher or first class for each passenger.

6. The said grantee may, for the purpose of constructing and maintaining such tramways under such superintendence as is hereinafter specified, open and break up the soil and metalled way of the several streets, roads and bridges in the city and thereon lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets, roads and bridges, and the said grantee may, in and on such streets, roads and bridges, do all other acts which he shall from time to time deem necessary for constructing and maintaining street tramways in the said city, doing as little damage as may be in the execution of the powers hereby granted, and shall make good all damage done to drains, sewers, water and gas pipes, or to the wires or other materials or things used for any other system of lighting, and whether belonging to the said municipality or to private individuals, and shall make compensation for any other damage done in the execution of such powers.

7. Before the said grantee proceeds to open or break up any street, road or bridge other than those referred to in sub-clauses from (i) to (v) in clause 1, he shall obtain the approval in writing of the said committee to the tracks or lines of the said tramway being laid down on the said streets, roads or bridges, and the said grantee, before opening or breaking up any street, road or bridge shall give to the said committee or their executive engineer, or other municipal officer duly appointed for that purpose, notice in writing of his intention to open or break up the same not less than three clear days before beginning such work, except in such cases of emergency arising from defects in any of the rails or other works, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

8. No street, road or bridge shall, except in cases of emergency as aforesaid be opened or broken up, except under the superintendence of the said committee or of their executive engineer, or of some other municipal officer duly appointed for that purpose, and according to such plans as shall be approved of by him or them : Provided always that, if the said committee or their engineer or other such officer as aforesaid fail to attend at the time fixed for the opening of any such street, road or bridge after having had such notice of the said grantee's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantee may perform the work specified in such notice without such superintendence as aforesaid.

9. When the said grantee opens or breaks up the roadway or pavement of

any street, road or bridge, he shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground and make good the roadway or pavement so opened or broken up as aforesaid, and carry away the rubbish occasioned thereby and deposit the same for the use of the said committee at such place as the executive engineer of the said municipality shall direct, and shall at all times, whilst any such roadway or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such roadway or pavement where the same shall be open or broken up every night during which the same shall continue open or broken up.

10. If the said grantee opens or breaks up any street, road or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantee is hereby authorized to perform such work without any superintendence or notice, or if the said grantee shall make any unnecessary delay in completing any such work or in filling in the ground or reinstating and making good, so far as is consistent with the existence of the said tramway, the roadway or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if he neglect to cause the place where such roadway or pavement has been broken up to be guarded and lighted he shall forfeit to the said committee a sum not exceeding fifty (50) rupees for every such offence, and he shall forfeit an additional sum not exceeding fifty (50) rupees for each day during which any such delay or neglect as aforesaid shall continue after he shall have received notice thereof.

11. The said grantee shall maintain and keep in repair such portion of the streets, roads and bridges in the city of Rangoon as shall be occupied by his tracks or lines, including therein, not only the space between his tracks or lines, but a space eighteen inches on either side thereof, and in consideration of the maintenance of such streets, roads and bridges as aforesaid, and of the yearly rent hereinafter mentioned to be paid by the grantee, the plant, rolling-stock and other vehicles, yards, workshops, engine-sheds and depôts of the said grantee shall be exempt from municipal taxation for a period of five years, except lighting and water-rates for such yards, workshops, engine-sheds and depôts.

12. The said grantee shall be liable for any loss, damage or injuries that any person or persons may sustain by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion

thereof, or in the exercise of the power given by clauses 6, 7, 8 and 11; the same shall be made good by the said grantee, and in the event of any suit being instituted against the said committee in respect of any of the matters hereinbefore mentioned, the said grantee shall, within fourteen days from the receipt of a notice thereof from the said committee, settle the same; but if the said grantee choose to defend such suit he shall be at liberty to do so upon his undertaking to indemnify the said committee against all losses, damages and expenses in respect thereof: Provided always that, if the said grantee fail to settle such suit or to indemnify the said committee as is hereinbefore provided, it shall be lawful for the said committee to settle the same without any consent or concurrence on the part of the said grantee, and the sums which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 per cent. per annum from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantee.

13. Nothing in this agreement shall be construed to prevent the said committee from taking up any of the public streets or roads traversed by the said tramway for the purposes for which the said committee may lawfully take up the same, and the said grantee shall have no right to claim cost from the said committee for obstructing the tramway or causing delay in the traffic so long as the delay shall not be unreasonable for the work to be performed.

14. If the said committee shall hereafter alter the level of any street, road or bridge along or across which any tramway by this agreement authorized is laid or authorized to be laid, the grantee shall alter or (as the case may be) lay his rails to suit the altered level of such street, road or bridge: Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways and in any case so as not to stop or prevent the free use or working thereof.

15. If at any time after the opening of any tramway for traffic the said grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the said grantee), it shall be lawful for the said committee, without any previous notice to the said grantee, to remove the tramway or part of the tramway so discontinued, and the said grantee shall pay to the said committee the cost of such removal and of the making good of the street, road or bridge, and the certificate of the said committee or of their engineer as to such cost shall be conclusive.

16. The provisions of this agreement shall remain and be in force for a term not less than twenty-one (21) years from the date thereof. The said com-

mittee shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, sheds, depôts, and yards, and everything connected therewith, after the expiration of the said twenty-one (21) years upon declaring its intention so to do within six months after the expiration of the said twenty-one (21) years; the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value at the termination of this agreement, exclusive of any compensation for goodwill, premium on compulsory sale or other consideration whatever, of the tramways and of the work and materials connected therewith, and of the lands and buildings and all the other property of the grantee, such value to be decided by mutual agreement or by arbitration as hereinafter provided.

17. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantee by any route or routes to be hereafter sanctioned by the said committee, and to the works connected with, or incidental to, such tramways, it being agreed that, in the event of the municipality failing to declare its intention as above provided to purchase the property of the said grantee, the terms of this contract shall continue in force during the period of six months from the date of the determination of these presents and for a further period of six months, and if the said committee shall not within that time exercise the option of purchase hereby given, the said committee and the said grantee shall enter into a fresh agreement.

18. The said grantee will, if required by the said committee, before opening up the roadway of any street, road or bridge, deposit with the Bank of Bengal in the name of the said committee the sum of rupees five thousand (5,000) or, in their option, promissory notes of the Government of India of the nominal value of rupees five thousand (5,000), and the same will remain so deposited until the completion by the said grantee of the abovementioned line of tramway herein sanctioned for construction. All interest accruing on the said sum, or the said notes, shall be credited to the said grantee, and, subject as next hereinafter mentioned, be paid to him as the same accrues due. The said committee shall be entitled to deduct all fines recoverable by the said committee and all moneys to which they may be entitled under any clause or clauses of these presents out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the tramways herein sanctioned for immediate construction.

19. In consideration of the concession herein granted, the said grantee undertakes on behalf of himself, his heirs, executors, administrators and assigns that he will pay to the said committee a yearly rent of rupees three thousand (3,000) per mile of double track or line and rupees two thousand (2,000) per

mile of single track or line, payable half-yearly ; the date on which such rent on each line of tramway shall begin to accrue shall be the date on which such line of tramways is open for public traffic.

20. It is agreed that the tramway or tramways from the Strand Road along Barr Street and Shafraz Road round the Public Buildings and back to the Strand Road should not be included, and that no sidings, turnouts or tracks necessary to connect the traffic lines with the carriage-sheds, engine-sheds, factories, depôts, yards or other property or properties of the said grantee shall be included in the mileage on which rent is to be paid, the tramway or tramways more particularly described in this paragraph, and such sidings, turnouts and necessary connecting tracks or lines being free of rent.

21. The sleepers, rails, materials and implements and other erections placed and erected by the said grantee on the streets, bridges or roads under the powers hereby granted shall be and remain the property of the said grantee, and the said grantee shall have the exclusive use of his tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

22. The prescribed rail is that known as the box-rail introduced by Mr. Robinson Souttar, to be made of Bessemer steel of the weight of sixty pounds to the yard, or such other rail of such weight as may be approved by the said committee.

23. The said grantee shall have the exclusive right of laying and using tramways within the limit of the Rangoon municipality on the terms herein stated ; but in the event of the said grantee refusing to lay down any line when the said committee may consider it necessary, the said committee shall be at liberty to grant the right of laying and using such line to any other party.

24. Unless the said grantee shall have commenced the work of laying down the said tramways within twelve months from the date of the execution of these articles of agreement, the said committee shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways; it being agreed, however, that these conditions of contract are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantee : provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the said grantee.

25. If any doubt, difference or dispute shall arise between the said grantee

and the said committee touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the said grantee and the other by the said committee within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

26. The said grantee is to be at liberty to form a company or limited liability company for the purpose of constructing, maintaining, and working the tramways authorized by or hereafter to be authorized under the terms of this agreement. The words "the said grantee" used in this agreement shall include such company or limited liability company so formed as aforesaid.

27. The words "the said committee" used in this agreement shall include the present committee and their successors, and also persons empowered by the said committee or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said committee are hereinbefore authorized or empowered to do or exercise.

THE RANGOON WATER-WORKS ACT, 1884.

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ACT No. XIX OF 1884.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*10th October, 1884.*]

An Act to confer powers and impose duties on the Municipal Committee for the Town of Rangoon in respect to the construction and maintenance of Water-works and the supply of Water in that Town.

WHEREAS a scheme has been settled and to some extent carried out for the construction and maintenance of water-works and the supply of water to the town of Rangoon by the municipal committee for that town ;

And whereas it is necessary for the purposes of the scheme that the Royal Lake at Rangoon, and all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works, and all land, bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, should vest in, and be under the control of, the municipal committee for that town ;

And whereas it is expedient that powers should be conferred and duties imposed upon the said municipal committee with respect to the construction and maintenance of the proposed water-works, and the supply of water to the town of Rangoon, and otherwise in relation thereto, and that all acts already done by the said municipal committee which could have been lawfully done if this Act had been in force should be validated ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement

1. (*1*) This Act may be called the Rangoon Water-works Act, 1884 ; and

(*2*) It shall come into force on such date[2] as the Chief Commissioner[3] may, by notification in the official Gazette, fix in this behalf.

(*3*) [*Acts done before passing of this Act which would have been lawful*

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1884, Pt. V, p. 321 ; for Proceedings in Council, *see ibid*, 1884, Supplement, pp. 893, 988 and 1471.

[2] The Act came into force on the 14th February, 1885, *see* Burma Gazette, 1885, Pt. I, p. 44.

[3] The Chief Commissioner is now the Lieutenant-Governor of Burma, *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261 ; and all powers conferred or duties imposed upon the Chief Commissioner shall from May 1st, 1897, be deemed to have been conferred or imposed upon the Lieutenant-Governor, *see* s. 15 of the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 265.

had this Act been in force to be deemed lawfully done.] *Rep. Act XII of 1891.*

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "town" means the local area for the time being comprised within the municipal limits of the town of Rangoon :

(*2*) "street" means any street, road, thoroughfare, passage or place over which the public have a right of way ; and includes the surface-soil and subsoil of any such street, and the footway and drains of any such street, and any bridge, culvert or causeway forming part of any such street :

(*3*) "owner" includes—

(*a*) the person who is for the time being entitled to the rent of the house or land in respect of which the word is used and who is not liable to pay rent for that house or land to any other person ;

(*b*) an agent of that person ; and

(*c*) a trustee for that person :

(*4*) "house" includes schools ; also factories and other buildings in which persons are employed :

(*5*) "water-works" includes all lakes, streams, tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works, and all land, bridges, buildings, engines, works, materials and things for supplying, or used for supplying, water under this Act to the town of Rangoon :

(*6*) "the committee" means the municipal committee for the town of Rangoon :

(*7*) "water-rent" includes any rent, reward or payment to be made to the committee in connection with the supply of water under this Act, but does not include the water-tax leviable under the Burma Municipal Act, 1884 :[1] XVII of 1884. and,

(*8*) a "supply of water for domestic purposes" does not include a supply of water for cattle, or for horses, or for washing carriages, where the cattle, horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture or business, or for watering gardens, or for fountains or for any ornamental purpose.

[1] *See* now s. 47 of the Burma Municipalities Act, 1898 (Burma Act III of 1898), *infra*, p. 485. As to power of committee to turn off or cut off water on neglect to pay water-tax, *see infra*, s. 34.

CHAPTER II.

VESTING OF PROPERTY.

Vesting of Royal Lake and cisterns, etc., in committee.

3. There shall vest in, and be under the control of, the committee, freed and discharged of and from all manner of rights, titles, privileges or claims whatsoever of any other person,—

(*a*) the Royal Lake at Rangoon; and

(*b*) all existing tanks, cisterns, springs, wells, pumps, reservoirs, conduits, aqueducts, hydrants, stand-pipes and works used or intended to be used for supplying water to the public in the town, and all land, bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto :

Provided as follows :—

(*1*) any person may at any time, subject to such rules as the committee make in this behalf, row, sail or fish on or in the waters of the Royal Lake ;

(*2*) nothing in this section shall affect the land adjacent to the Royal Lake and known as the Dalhousie Park, but that land shall be preserved as a public park for the use of the public.

CHAPTER III.

CONSTRUCTION AND MAINTENANCE OF WATER-WORKS.

Duty of committee to construct works for supply of water.

4. Subject to rules to be made under this Act by the Chief Commissioner,[1] the committee shall cause such mains and pipes to be laid, and such water-works to be constructed, as may be necessary for the supply of pure and wholesome water sufficient for the use of the inhabitants for domestic purposes in all parts of the town :

Provided that the Chief Commissioner[1] may, by order in writing, from time to time exempt[2] any part of the town from the provisions of this section, and cancel any such exemption.

Duty of committee to erect stand-pipes.

5. The committee shall cause such stand-pipes or pumps to be erected, at such intervals as the Chief Commissioner,[1] by rules made under this Act, pre-

[1] *See* the third note on p. 161, *supra*.

[2] For notification exempting certain parts of Rangoon from the operation of the section, *see* Burma Gazette, 1885, Pt. I, p. 44.

scribes, in all the chief streets in those parts of the town in which mains or pipes have been laid under the last foregoing section.

Power for committee to execute works.

6. The committee may, for the purpose of constructing or maintaining any water-works for the supply of water to the town, enter upon any land and take levels of the same, and set out such parts thereof as they think necessary, and dig and break up the soil of the land:

Provided that, in the exercise of these powers, the committee shall do as little damage as may be, and shall make full compensation to all persons interested for all damage sustained by them through the exercise of these powers, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, X of 1870. 1870.[1]

Power for committee to break up streets.

7. The committee may open and break up the soil and pavement of the streets, and lay down and place pipes, conduits and other works and engines, and from time to time repair, alter or remove the same, and do all other acts which the committee from time to time deem necessary for supplying water to the town.

CHAPTER IV.

Supply of Water.

A.—Supply of Water for Domestic Purposes to Occupiers of Houses or Lands.

Right of occupier to certain supply of water for domestic purposes.

8. (*1*) Every occupier of a house or land situate in a part of the town not exempted under the proviso to section 4 shall be entitled to have free of further charge, through the communication-pipes constructed as hereinafter provided, a supply to the house or land of fifteen hundred gallons of pure and wholesome water for domestic purposes for every rupee paid to the committee for water-tax on account of the house or land.

(*2*) If the committee have reason to believe that the occupier of any house or land consumes more water than he is entitled to have free of further charge under this section, they may provide a water-metre at their own expense, and attach it to such part of the communication-pipes as they think fit.

(*3*) If the occupier consumes any water over and above the quantity to which he is entitled free of further charge under this section, he shall pay for it at the rate of one rupee for every fifteen hundred gallons, or part of fifteen hundred gallons.

[1] Read now the Land Acquisition Act, 1894 (I of 1894), printed, General Acts, Vol. VI, p. 100.

Right of occupier paying water-tax to have water brought into his house or land.

9. Every occupier of a house or land who is entitled to a supply of water free of further charge under the last foregoing section shall, subject to the provisions of this Act, be entitled to have communication-pipes laid down from the service-pipes of the committee, for bringing into his house or land a reasonable supply of water:

Provided that the committee may cut off the supply of water to any house or land while the house or land is unoccupied.

Construction of communication-pipes.

10. The communication-pipes leading the water from the service-pipes of the committee into the house or land of any occupier, and the pipes and works within the house connected therewith, shall be of such character, dimensions and material as the committee fix and approve, and shall be constructed at the expense of the person requiring them.

Inspection of works, pipes and fittings before connection with service-pipes.

11. (*1*) Before a connection for the supply of water from the service-pipes of the committee to any house or land is sanctioned by the committee, the committee shall cause all the works, pipes and fittings within the house or land to be inspected by such officer as the committee appoint in this behalf.

(*2*) The cost of an inspection under this section shall be payable in advance by the person applying for the connection, at such rate as the committee, at a special meeting, from time to time, direct.[1]

(*3*) Until the officer has certified that the works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the committee's service-pipes shall not be permitted.

Connection with service-pipes to be executed only by an officer of the committee.

12. (*1*) The connection with the service-pipes of the committee, and the laying of communication-pipes under any street, shall be executed by an officer of the committee authorized in that behalf.

(*2*) The expense of making the connection shall be payable in advance by the person applying for the same, at such rate as the committee, at a special meeting, from time to time, direct.[1]

Power for officer of committee to enter premises.

13. (*1*) The officer authorized in that behalf by the committee may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain if there is any waste or misuse of the water.

(*2*) If any such officer at any such time is refused admittance into any such house or land for the purposes aforesaid, or is prevented from making such examination as aforesaid, the committee may forthwith turn off or cut off the water from the house or land.

[1] For general rules and directions under ss. 10, 11 and 12, *see* the notifications noted on p. 236 of the Burma Laws List, Ed. 1897.

Power for committee to turn off water when pipes are out of repair.

14. If any pipes, works or fittings connected with the supply of water to any house or land are at any time found, on examination by any officer of the committee authorized in that behalf, to be out of repair to such an extent as to cause any waste of water, the committee may, after the expiry of twenty-four hours from the service of notice in writing to this effect, cause the water to be turned off or cut off from the house or land, and may recover the expense incurred for turning off or cutting off the water from the occupier of the house or land.

B.—Supply for gratuitous use in Stand-pipes.

Duty of committee to supply water for gratuitous use in stand-pipes.

15. The committee shall cause a sufficient quantity of pure and wholesome water to be supplied for the gratuitous use of the inhabitants of the town for domestic purposes in the stand-pipes to be erected by the committee under section 5.

C.—Supply of Water for extinguishing Fires and cleansing Sewers and Streets.

Duty of committee to fix fire-plugs in mains.

16. The committee shall fix and renew and keep in effective order such fire-plugs in such of the mains and other pipes laid by them, and shall deposit keys of the fire-plugs at such places, as the Chief Commissioner,[1] by rules made under this Act, directs.

Duty of committee to supply water for cleansing sewers and drains.

17. In all the mains and pipes to which any fire-plug is fixed, the committee shall provide and keep constantly laid on, unless prevented by unusual drought or other unavoidable accident, a sufficient supply of water for use with fire-engines, for cleansing the sewers and drains, and for cleansing and watering the streets.

D.—Supply of Water for other than Domestic Purposes.

Supply for other than domestic purposes.

18. (*1*) The committee may, from time to time, supply any person with water by measurement for other than domestic purposes, for such remuneration and on such terms and conditions as shall be agreed on between the committee and the person:

Provided that—

(*a*) notwithstanding any such agreement, a person shall not be entitled to such a supply whenever and as long as the committee are of opinion that the supply would interfere with the proper supply of water for domestic purposes under this Act; and

[1] *See* the third note on p. 161, *supra*.

(*b*) the committee shall not be liable, in the absence of express stipulation under any such agreement, to any forfeiture, penalty or damages for not supplying the water if the want of the supply arises from unusual drought or other unavoidable cause or accident.

(2) When any such agreement has been entered into by the committee with any person, the committee may, subject to such charges or rates as may have been fixed by the committee at a special meeting, lay down, or allow to be laid down, the necessary communication-pipes and works, of such dimensions and character as may be fixed by the committee, for supplying the person with water in accordance with the terms of the agreement.

E.—Pressure of Water supplied.

Pressure at which water must be kept.

19. From such a day as the Chief Commissioner,[1] by notification in the local official Gazette, directs in this behalf, the supply of water in the mains and pipes which the committee are required to lay under this Act shall be laid on at such pressure as the Chief Commissioner,[1] by rules made under this Act, prescribes.

CHAPTER V.

Reciprocal Rights of Owners and Occupiers to Supply of Water to Houses.

Power for occupier of house to require owner to provide works for water-supply.

20. (*1*) Any occupier holding direct from the owner of a house may, by notice in writing signed by him, require the owner of the house to construct all such works as may be necessary for bringing into the house a supply of water for domestic purposes.

(*2*) Every notice under this section shall contain an undertaking on the part of the occupier to pay interest at the rate of one per centum per mensem, calculated from the date of the completion of the works, on the cost of the works during the residue of his term of occupation.

(*3*) If the house, or the land attached thereto, does not abut upon a street in which there is a supply-main, the occupier shall undertake to pay the cost of connecting the house with the nearest supply-main.

Power for occupier to make works in default of owner.

21. (*1*) If the owner does not, within three months from the service of the notice mentioned in the last foregoing section, cause such works as aforesaid to be completed, the occupier may cause the works to be completed,

[1] *See* the third note on p. 161, *supra*.

and may by way of additional remedy deduct the cost of the works from the rent payable by him in respect of the house :

Provided that the occupier shall not recover on account of the cost—

(*a*) a sum exceeding the amount of six months' rent ; or,

(*b*) where the house or the land attached thereto does not abut upon a street in which there is a supply-main, the cost of connecting the house with a supply-main.

(*2*) The deduction which an occupier is authorized to make under this section shall be made by six equal monthly instalments.

(*3*) Interest on each instalment shall be payable to the owner by the occupier at the rate of one per centum per mensem from the time when it is deducted.

What works are sufficient for supply of water to house.

22. The works shall not be deemed sufficient for bringing into the house a supply of water for domestic purposes unless the following taps, with the necessary works in connection therewith, are provided, namely :—

(*a*) two taps in the house ;

(*b*) one tap in the cook-room of, or other building attached to, the house and

(*c*) one tap in or near the stables or other out-houses belonging to the house :

Provided that, if the annual rent of the house with the buildings and land attached thereto is less than three hundred rupees, it shall be sufficient to provide one tap only, together with the necessary works in connection therewith, within the house and the buildings and land attached thereto.

Estimate and specification of works to be sent.

23. Works for introducing a supply of water to a house shall not be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such a specification and estimate to the owner.

Power to refer to committee.

24. If there is any difference between the owner and the occupier respecting the cost or the sufficiency of the proposed works, either the owner or the occupier may refer the difference to the committee, and the written award of any officer authorized by the committee in this behalf shall be final and binding on the owner and the occupier.

Fee on reference.

25. There shall be payable by the person making a reference to the committee under the last foregoing section a fee (not exceeding ten rupees) at the rate of two rupees for every hundred rupees of the monthly rent of the house in respect of the water-supply to which the difference has arisen.

Duty of owner to keep works in repair.

26. (*1*) The owner of any house or land shall keep all works connected with the supply of water to the house or land in substantial repair.

(*2*) If the owner fails to put any such works in substantial repair after being requested by the occupier to do so, the occupier may cause the necessary repairs to be made, and may by way of additional remedy deduct the cost of the repairs from the rent payable by him in respect of the house or land.

Power for owner to recover sums payable by occupier.

27. Any owner to whom any sum is payable under section 20 or section 21 may recover the sum from the person liable to pay it as if it were rent payable by that person for the house in respect of which the expenses have been incurred.

Saving of contracts between owners and occupiers.

28. Nothing in this chapter shall affect any contract in writing between the owner and occupier of any house or land.

CHAPTER VI.

RULES.

Power for Chief Commissioner to make rules.

29. The Chief Commissioner[1] may from time to time make rules[2] consistent with this Act—

(*a*) to prescribe the size and nature of the mains and pipes to be laid and the water-works to be constructed by the committee for the supply of water under this Act;

(*b*) to prescribe the size and nature of the stand-pipes or pumps to be erected by the committee under this Act, and the intervals at which they must be erected.

(*c*) to prescribe the mains or pipes in which fire-plugs are to be fixed, and the places at which keys of the fire-plugs are to be deposited, by the committee under this Act;

(*d*) to prescribe the pressure at which the water supplied by the committee under this Act is to be laid on either generally or at specified times; and

(*e*) generally to define and regulate the powers and duties of the committee under this Act.

Power for committee to make rules.

30. (*1*) The committee may from time to time, at a special meeting, make rules consistent with this Act—

(*a*) for regulating rowing, sailing and fishing on or in the Royal Lake, and

[1] *See* the third note on p. 161, *supra*.

[2] For rules under section 29 as to Municipal Engineer's power of entry on land, *see* the notification noted on p. 236 of the Burma Laws List, Ed. 897.

(*b*) for preventing the waste or misuse of water supplied by them and for defining the nature of the pipes, casks, cisterns and other apparatus to be used by every person supplied by them with water.[1]

(*2*) In making a rule under this section the committee may direct that breach of it shall be punishable with fine which may extend to fifty rupees and, when the breach is a continuing one, with a further fine of five rupees for every day after the first during which the breach continues.

(*3*) If any person, having or requiring a supply of water from the committee, fails to comply with any rules made under clause (*b*) of this section, the committee may refuse to supply water to him and may cut off the water supplied to him, unless and until the rules are complied with:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Procedure for making rules.

31. (*1*) The Chief Commissioner[2] or committee shall, before making any rules under section 29 or section 30, publish a draft of the proposed rules for the information of persons interested.

(*2*) The publication shall be made,—

(*a*) in the case of rules under section 29, in such manner as, in the opinion of the Chief Commissioner,[2] is sufficient; and

(*b*) in the case of rules under section 30, in such manner as the Chief Commissioner,[2] by order, directs.[3]

(*3*) A notice shall be published with the draft rules specifying a date at or after which the draft shall be taken into consideration.

(*4*) The Chief Commissioner[2] or committee shall, before making the rules, receive and consider any objection or suggestion which is made by any person with respect to the draft before the date so specified.

Publication of rules.

32. Every rule made under section 29 or section 30 shall be published in the local official Gazette in English and in such other language or languages as the Chief Commissioner[2] directs,[4] and such publication shall be conclusive evidence that the rule has been made as required by section 31.

CHAPTER VII.

ARREARS AND OFFENCES.

Arrears of water-rents.

33. All arrears of water-rents under this Act may be recovered on

[1] For general rules and directions made under s. 30 (*1*) (*b*) conjointly with ss. 10, 11 and 12, *see* the notification noted on p. 236 of the Burma Laws List, Ed. 1897.

[2] *See* the third note on p. 161, *supra*.

[3] As to mode of publication of draft rules under the Act, *see* the notification noted on p. 236 of the Burma Laws List, Ed. 1897.

[4] As to mode of publication of rules, *see* Burma Laws List, Ed. 1897, p. 236.

application to such revenue-officer[1] as the Local Government may appoint in this behalf, as if they were arrears of land-revenue.[2]

Power for committee to turn off water on neglect to pay water-tax or water-rent.

34. If any person supplied with water neglects to pay—

XVII of 1884. (*a*) the water-tax leviable under the Burma Municipal Act, 1884,[3] or,

(*b*) any water-rent payable by him to the committee,

the committee may turn off or cut off the water from the house or land in respect of which the water-tax or water-rent is payable, by cutting off the pipe to the house or land, or by such other means as the committee think fit, and may recover in manner provided by the last foregoing section the expense of turning off or cutting off the water from the person :

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he has otherwise incurred.

Penalty for obstructing, diverting or wasting water.

35. If any person unlawfully obstructs the flow of, flushes, draws off, diverts or takes, water from any water-works belonging to, or under the management or control of, the committee, or from any water or streams by which these water-works are supplied, or wastes any water supplied to him under this Act, he shall be punished with fine which may extend to one hundred rupees.

Penalty for unauthorized application of water.

36. If any person—

(*a*) uses for other than domestic purposes any water supplied under this Act for domestic purposes ; or,

(*b*) where water is supplied under section 18 for a specified purpose, uses that water for any other purpose,

he shall be punished with fine which may extend to fifty rupees, without prejudice to the right of the committee to recover from him the price of the water misused.

Penalties for causing the water of the committee to be fouled, etc.

37. (*1*) If any person—

(*a*) bathes in, at or upon any water-works, or washes, throws or causes to enter therein any dog or other animal or

(*b*) throws any rubbish, dirt, filth or other noisome thing into any water-works, or washes or cleanses therein any cloth, wool, leather or skin of any animal, or any clothes or other thing, or

(*c*) causes the water of any sink, sewer or drain, or of any steam-engine or boiler, or any other filthy water belonging to him or under his

[1] The Secretary to the Municipal Committee of Rangoon has been appointed to be the Revenue-officer before whom arrears may be realized, *see* the notification noted on p. 236 of the Burma Laws List, Ed. 1897.

[2] *See* the Burma Land and Revenue Act, 1876 (II of 1876), ss. 45 to 51, *supra*, p. 18.

[3] Read now the Burma Municipal Act, 1898 (Burma Act III of 1898), s. 47, *infra*, p. 485.

control, to turn or be brought into any water-works, or does any other act whereby the water in any water-works is fouled, or likely to be fouled,

he shall, for every such offence, be punished with fine which may extend to one hundred rupees, and to ten rupees in addition for each day (if more than one) during which the offence continues.

Prosecutions.

38. Prosecutions under this Act or the rules made under this Act may be instituted by the committee or any person authorized by them in this behalf and not otherwise.

ACT No. I OF 1885.[1]

(APPLIES TO UPPER AND LOWER BURMA.)

[*2nd January, 1885.*]

An Act to amend the Burma Steam-boilers and Prime-movers Act, 1882.[2]

WHEREAS it is expedient to amend the Burma Steam-boilers and Prime-movers Act, 1882;[2] It is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Burma Steam-boilers and Prime-movers Act, 1885; and it shall come into force at once. XVIII of 1882.

Amendment of section 4 of Act XVIII of 1882.

2. In section 4 of the Burma Steam-boilers and Prime-movers Act, 1882, after the words "first or second class" the words "or as Engine-drivers" shall be added. XVIII of 1882

Amendment of sections 5, 8 and 11 of same Act.

3. In section 5, sub-section (*2*), section 8, clause (*b*), and section 11, clause (*b*), of the said Act, after the word "Engineer" the words "or in the case of a boiler or prime-mover attached to an engine of not more than twenty horse-power of an engineer or engine-driver", shall be inserted.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1884, Pt. V, p. 533; for Proceedings in Council, *see ibid*, Supplement, pp. 1304, 1344 and *ibid*, 1885, Supplement, p 13.

[2] Printed, *supra*, p. 135.

ACT No. XV OF 1887.[1]

(APPLIES TO LOWER AND UPPER BURMA.)

[*29th July, 1887.*]

An Act for the Regulation of Military Police in Burma.

WHEREAS it is expedient to establish a military police-force in Lower Burma and to amalgamate that force with the military police-force of Upper Burma; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Burma Military Police Act, 1887.

(2) It extends to the whole of Burma * * * * * * * * : [2] and [3][applies to every member of the Burma military police-force, wherever he may be; and]

(*3*) It shall come into force on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.[4]

II of 1887. Repeal.

2. The Upper Burma Military Police Regulation, 1887, is hereby repealed.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "military police-officer" means a person appointed to the Burma police-force under section 7 of Act V of 1861[5] who has signed the statement in the schedule to the Upper Burma Military Police Regulation, 1887, or to this Act, in accordance with the provisions of that Regulation or of this Act, as the case may be :

(*2*) "active service" means service at outposts or against hostile tribes or other persons in the field :

(*3*) "Deputy Commissioner" includes an Assistant Commissioner in charge of a sub-division :

(*4*) "Commandant" means a person appointed by the Local Government to be a Commandant of Military Police, and includes a District

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt. V, p. 73; for Proceedings in Council, *see ibid*, Pt. VI, pp. 49, 51 and 53.

Act XV of 1887 has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra*, p. 266.

The whole Act, except s. 1, sub-sections (2) and (3), and s. 2, has been extended to all the Shan States, except those situated east of the Salween River, the State of Hkamkti Long and the State of Möng Mit with its dependency Möng Láng, *see* the Shan States Laws and Criminal Justice Order, 1895 (Notification No. 11, dated 11th July, 1895) in Burma Gazette, 1895, Pt. I, p. 262, and *infra*, pp. 606 and 608.

[2] The words "(inclusive of Upper Burma) except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *infra* p. 286.

[3] These words were added by Act XIII of 1898, *see* the Third Schedule, *infra* p. 278.

[4] Act XV of 1887 came into force on the 15th October, 1887, *see* Burma Gazette, 1887, Pt. I, p. 398.

[5] Printed, General Acts, Vol. I, p. 379.

Superintendent of Police, and an Assistant District Superintendent of Police in charge of the police of a district or of a sub-division :

[1](5) "Adjutant" means a person appointed by the Local Government to be an Adjutant of Military Police, and in Lower Burma includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the police of a district or of a sub-division :

[1](6) "Assistant Commandant" means a person appointed by the Local Government to be an Assistant Commandant or an Assistant Adjutant of Military Police, and includes an Assistant District Superintendent of Police not in charge of the police of a district or of a sub-division :

[1](7) "Inspector" means an Inspector of Civil Police who has been appointed by the Inspector-General of Police to be also an Inspector of Military Police :

[1](8) The expressions "reason to believe", "criminal force", "assault", "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code.[2] XLV of 1860.

Enrolment and discharge of military police-officers.

4. (*1*) Before an officer appointed to the Burma police-force under section 7 of Act V of 1861[3] is appointed to be a military police-officer, the statement in the schedule shall be read to him in the presence of a Magistrate, Commandant[4] [Adjutant or Assistant Commandant], and shall be signed by him in acknowledgment of its having been so read to him[5] [and he shall be asked the questions in the said schedule set out, and in answering such questions he shall be bound to state the truth.]

(*2*) Notwithstanding any notice given under section 9 of Act V of 1861,[3] a military police-officer shall not be entitled to be discharged from the Burma police-force except in accordance with the terms of the statement which he has signed under the Upper Burma Military Police Regulation, 1887, or under this Act, as the case may be. II of 1887.

Classes and grades of Military police-officers.

[6]**5.** (*1*) There shall be six classes of Military police-officers, namely :—

(i) subahdars,
(ii) jamadars,
(iii) havildars,
(iv) naiks,
(v) lance-naiks.
(vi) sepoys,

and such grades in each class as the Local Government may direct.

[1] Sub-sections 5, 6, 7 and 8 were substituted for sub sections 5 and 6, by s. 2 of the Burma Military Police Act Amendment Act, 1899 (Burma Act III of 1899). Printed, *infra*, p. 580.

[2] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

[3] Printed, General Acts, Vol. I, p. 379.

[4] These words were substituted for the words "or Second in command," by s. 3 (*1*) of Burma Act of 1899.

[5] These words were added to s. 4 (*1*) by s. 3 (*2*) of Burma Act III of 1899.

[6] This section was substituted for the pre-existing section, by s. 4 of Burma Act III of 1899.

(2) The expression "superior officer" in this Act includes—

(*a*) in relation to a sepoy, any lance-naik, naik, havildar, jamadar or subahdar;

(*b*) in relation to a lance-naik, any lance-naik of longer service in that class, and any naik, havildar, jamadar or subahdar;

(*c*) in relation to a naik, any naik of longer service in that class, and any havildar, jamadar or subahdar;

(*d*) in relation to a havildar, any havildar of a higher grade, or of longer service as havildar of the same grade, and any jamadar or subahdar;

(*e*) in relation to a jamadar, any jamadar of a higher grade, or of longer service as jamadar of the same grade, and any subahdar;

(*f*) in relation to a subahdar, any subahdar of a higher grade, or of longer service as subahdar of the same grade; and

(*g*) in relation to any military police-officer, any Inspector, Assistant Commandant, Adjutant, Commandant or Deputy Commissioner.

More heinous offences.

6. A military police-officer who—

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, does not without delay give information thereof to his commanding or other superior officer; or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, whether on or off duty; or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend; or

(*d*) directly or indirectly holds correspondence with, or assists or relieves, any person in arms against the State, or omits to discover immediately to his commanding or other superior officer any such correspondence coming to his knowledge; or

who, while on active service,—

(*e*) disobeys the lawful command of his superior officer; or,

(*f*) deserts the service; or,

(*g*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave; or

(*h*) without authority leaves his commanding officer, or his post or party, to go in search of plunder; or

(*i*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*j*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or

(*k*) intentionally causes or spreads a false alarm in action, camp, garrison or quarters,

shall be punished with transportation for life or for a term of not less than seven years, or with imprisonment for a term which may extend to fourteen years, or with fine which may extend to three months' pay, or with fine to that extent in addition to such sentence of transportation or imprisonment, as the case may be, as may be passed upon him under this section.

Less heinous offences.

7. A military police-officer who—

(*a*) is in a state of intoxication when on or for any duty or on parade or on the line of march; or

(*b*) strikes or attempts to force any sentry; or,

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape; or,

(*d*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

(*e*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

(*g*) strikes or otherwise ill-uses any military police-officer subordinate to him in rank or position; or

(*h*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made to the injured person and to report the case to the proper authority; or

(*i*) designedly or through neglect injures or loses, or fraudulently disposes of, his arms, clothes, tools, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person ; or

(*j*) malingers, or feigns or produces disease or infirmity in himself or intentionally delays his cure, or aggravates his disease or infirmity ; or,

(*k*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or

who, while not on active service,—

(*l*) disobeys the lawful command of his superior officer ; or

(*m*) plunders, destroys or damages any property of any kind ; or,

(*n*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave ; or

(*o*) deserts the service ;

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.

Corporal punishment.

8. A military police-officer, not being above the [1][class of sepoy] who, while on service at an out-post at the time of a projected attack on that post, or in the field against hostile tribes or other persons, commits any offence specified in either of the two last foregoing sections may, in lieu of any punishment to which he is liable thereunder, be punished with whipping :

Provided that—

(*a*) the punishment of whipping shall not in any case exceed thirty stripes, and

(*b*) sentence of whipping shall be passed only by a Deputy Commissioner, or, in his absence, by a Commandant invested with the powers of a Magistrate of the first or second class.

Minor punishments.

9. (*1*) A Deputy Commissioner, Commandant [2][Adjutant or Assistant Commandant or an Inspector, or a subahdar or jamadar] commanding a separate detachment or an out-post or in temporary command at the [3][head-quarters of a district or battalion during the absence of the Commandant, Adjutant and

[1] These words were substituted for the words " rank of constable," by s. 5 of the Burma Military Police Act Amendment Act, 1899 (Burma Act III of 1899). Printed, *infra*, p. 580.

[2] These words were substituted for the words " or Second-in-command or an officer," by s. 6 (*1*) of Burma Act III of 1899.

[3] These words were substituted for the words " head-quarters of a district during the absence of the Deputy Commissioner, Commandant and Second-in-command," by s. 6 (*2*) of Burma Act III of 1899.

Assistant Commandant] may, without a formal trial, award to any military police-officer [1][of the class of sepoy] who is subject to his authority any of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say,—

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;

(*b*) [2][extra guards pickets or patrols];

(*c*) [2][confinement to lines for any period not exceeding thirty days with punishment drill not exceeding fifteen days and thereafter fatigue duty.]

(2) Any one of these punishments may be awarded separately or in combination with any one or more of the others.

Place of imprisonment.

10. A person sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Burma police-force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting officer or Deputy Commissioner so directs, be confined in the quarter-guard or such other place as the convicting officer or Deputy Commissioner may consider suitable.

Conferment of magisterial powers on police-officers.

11. Notwithstanding anything in Act V of 1861 [3] or in other enactment for the time being in force, the Local Government may invest [4] any [5][Commandant, Adjutant or Assistant Commandant] with the powers of a Magistrate of any class for the purpose of enquiring into or trying any offence committed by a military police-officer and punishable under Act V of 1861 [3] or this Act.

Disciplinary and other powers of Commandants, Adjutants or Assistant Commandants of military police otherwise than in

12. (*1*) Subject to such rules as the Local Government may make in this behalf, a Commandant, [6][Adjutant or Assistant Commandant] of military police shall have, with respect to police-officers appointed to the Burma police-force under section 7 of Act V of 1861 [6] who are not military police-officers,

[1] These words were inserted by s. 6 (*3*) of Burma Act III of 1899 *infra* p. 582.

[2] Sub-clauses (*b*) and (*c*) were substituted for sub-clause (*b*), by s. 6(*4*) of Burma Act III of 1899.

[3] Printed, General Acts, Vol. I, p. 379.

[4] For notification empowering Battalion Commandants to try certain cases, *see* Burma Gazette, 1891, Pt. I, p 558.

[5] These words were substituted for the words "police officer not below the rank of Commandant," by s. 7 of the Burma Military Police Act Amendment Act, 1899 (Burma Act III of 1899).

[6] These words were substituted for the words "or Second-in-command" by s. 8 of Burma Act III of 1899.

the same disciplinary powers as a District Superintendent of Police has with respect to them under that section. respect of military police.

(*2*) The Local Government may confer on a Commandant [1][Adjutant or Assistant Commandant] of military police, by name or by virtue of his office, any other power of a District Superintendent of Police under Act V of 1861 [2] or any other enactment for the time being in force, or under any rule under any such enactment, and may define the circumstances in which any power so conferred may be exercised by such Commandant [1][Adjutant or Assistant Commandant.]

13. A Commandant [1][Adjutant or Assistant Commandant] of military police shall be entitled to all the privileges which a police-officer has under sections 42 and 43 of Act V of 1861,[2] section 125 of the Indian Evidence Act, 1872,[3] and any other enactment for the time being in force. Privilges of Commandants Adjutants and Assistant Commandants of military police as police-officers. of 1872.

14. The Local Government may, as regards the military police, make such orders and rules [4] consistent with this Act as it thinks expedient relative to the several matters respecting which the Inspector General of Police, with the approval of the Local Government, may, as regards the rest of the Burma Police-force, frame orders and rules under section 12 of Act V of 1861.[2] Power to make rules.

THE SCHEDULE.

STATEMENT.

(*See sections 3 and 4.*)

After you have served for three years in the Burma Military Police you may, at any time when not on active service, apply for your discharge, [5][through the officer to whom you may be subordinate, to a Commandant or Adjutant of military police,] and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Burma Military Police to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge, and you must remain and do your duty until the necessity for retaining you in the Burma Military Police ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment, after you have been discharged, you will have no claim

[1] *See* the sixth note on p. 178.
[2] Printed, General Acts, Vol. I, p. 379.
[3] Printed, General Acts, Vol. II, p. 222.
[4] For examples of such rules, *see* Notification No. 249, Burma Gazette, 1893, Pt. I, p. 285.
[5] These words were substituted for the words "through the Inspector, if any, to whom you may be subordinate to a Commandant of Military Police or to the Deputy Commissioner of the District in which you may be serving", by s. 9 (*1*) of Burma Act III of 1899. *Infra*, p. 582.

to reckon for pension or any other purpose your service previous to your discharge.

[1][You will now be asked two questions, and your answers will be recorded. If your answers are hereafter found to be false in any particular, you will, if enrolled in the Burma Military Police, be liable, upon conviction, to imprisonment for three years and to fine under section 193 of the Indian Penal Code.

Question (*1*)—What is your name, your father's name, your caste, and native town or village and district?

Answer—

Question (*2*)—Have you ever previously been in the service of Her Majesty the Queen, Empress of India, or of the Government of India?

If so, when, in what capacity or capacities, and when and under what circumstances did your service cease?

Answer—

(*Signature of the police-officer to be enrolled.*)

The answers of the said

were recorded by me, and the whole was translated to him and was signed by him, after I had ascertained that he fully understood the purport thereof.]

(Signature of police-officer in acknowledgment of the above having been read to him.) } *A. B.*

Signed in my presence after I had ascertained that *A. B.* understood the purport of what he signed. } *S*

C. D.,
Magistrate, Commandant
[2][*Adjutant or Assistant Commandant*].

ACT No. XVIII of 1888.[3]

(Applies to Upper and Lower Burma.)

[*21st December, 1888.*]

An Act to provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.

Whereas it is expedient that there should be a Financial Commissioner for Burma; It is hereby enacted as follows:—

Extent and commencement.

1. (*1*) This Act shall extend to the whole of Burma * * * * * * *; [4] and

[1] This portion was added to the schedule, by s. 9 (*2*) of the Burma Military Police Act Amendment Act, 1899 (Burma Act III of 1899). *Infra*, p. 582.

[2] These words were substituted for the words "or Second-in-command," by s. 9 (*3*) of Burma Act III of 1899.

[3] Short title, "The Burma Financial Commissioner's Act, 1888," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *infra*, p. 285.

For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 138; for discussions on the Bill, *see ibid*, 1888, Pt. VI, pp. 130 and 139.

[4] The words "(inclusive of Upper Burma) except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *infra*, p. 286.

(*2*) It shall come into force at once.

Appointment of Financial Commissioner.

2. (*1*) There shall be a Financial Commissioner for Burma, and he shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Any person appointed by the Local Government or by the Governor General in Council to the office of Financial Commissioner since the first day of April, 1888, shall be deemed to have been appointed under sub-section (*1*).

Subordination of Financial Commissioner to Local Government.

3. The Financial Commissioner shall be subject to the control of the Local Government and shall, subject to the provisions of this Act and of any other enactment for the time being in force, discharge such functions as that Government may assign to him.[1]

Financial Commissioner to be Chief Revenue-authority.

4. In any enactment for the time being in force in which the expression "Chief Revenue-authority" or "Chief Controlling Revenue-authority" is used, the expression shall, subject to the provisions of any enactment passed after the commencement of this Act and to any conditions and restrictions which the Local Government, with the previous sanction of the Governor General in Council, may prescribe, be construed as referring to the Financial Commissioner.

Delegation of powers to Financial Commissioner by Local Government.

5. The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, delegate to the Financial Commissioner, subject to such conditions and restrictions, if any, as that Government, with such sanction as aforesaid, may prescribe, all or any of the functions assigned to that Government by any enactment for the time being in force.

Validation of past proceedings of Financial Commissioner.

6. All acts and proceedings done and taken after the first day of April, 1888, and before the commencement of this Act, by any person appointed by the Local Government or the Governor General in Council to the office of Financial Commissioner, or by any person acting under the authority of a person so appointed, shall be as valid and operative as they would have been if they had been done and taken in exercise of powers conferred by or conferable under this Act.

Modification of certain enactments.

[2] **7.** The enactments specified in the schedule shall be modified to the extent and in the manner mentioned in the third column thereof.

[1] Under section 3 the Financial Commissioner is appointed Chief Customs Authority in and for Burma, *see* Burma Gazette, 1889, Pt. I, p. 179.

[2] So much of this Section and of the Schedule as relates to Act XX of 1886, is repealed. *See* the Burma Laws Act, 1898, XIII of 1898, Fifth Schedule. Printed, *infra*, p. 286.

THE SCHEDULE.

ENACTMENTS MODIFIED.

Number and year.	Title.	Modifications.
[1]* * *	* * *	* * *
III of 1879 . .	Destruction of Records Act, 1879.	In section 7 insert the words "and Burma" after the word "Punjab."
[2]* * *	* * *	* * *

ACT No. III OF 1889.[3]

(APPLIES TO LOWER BURMA ONLY.)

[*22nd February, 1889.*]

An Act to provide a Village-system and amend the law relating to Rural Police in Lower Burma.

WHEREAS it is expedient to provide a village-system and amend the law relating to rural police in Lower Burma; It is hereby enacted as follows :—

Title, extent, commencement and repeal.

1. (*1*) This Act may be called the Lower Burma Village Act, 1889.

(*2*) It extends to the whole of Lower Burma ; and

(*3*) This section and sections 11 to 23 (both inclusive) shall come into force at once.

(*4*) The other sections shall not come into force in any part of Lower Burma until the Local Government extends them thereto.

(*5*) Such extension shall be by notification in the Burma Gazette, describing the part of Lower Burma [4] to which the sections are extended and the day on which they are to take effect therein.

(*6*) On and from that day sections 12 to 21 (both inclusive) of the Burma District Cesses and Rural Police Act, 1880,[5] shall be repealed as regards that part. II of 1880.

[1] The entry relating to the Indian Stamp Act, 1879 (I of 1879) was repealed by the Indian Stamp Act, 1899 (II of 1899.)

[2] The reference to Act XXII of 1881 was repealed by the Excise Act, 1896 (XII of 1896), s. 2, and Schedule, printed, *infra*, p. 242.

The reference to Act XX of 1886 was repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1888, Pt. V, p. 145; for Proceedings in Council, *see ibid*, Pt. V, pp. 131 and 139.

[4] The provisions of ss. 2 to 13 have been extended to the whole of Lower Burma, except the Salween District by various notifications, *see* footnote to p. 266 of the Burma Laws List, Ed. 1897.

[5] Printed, *supra*, p 69.

Definition.

2. (*1*) For the purposes of this Act "village" includes—

(*a*) village-lands,

(*b*) rivers passing through or by, and lakes adjacent to, those lands, and

(*c*) a group of villages.

(*2*) The Deputy Commissioner may determine the limits of a village for the purposes of this Act.

Appointment of headman.

3. (*1*) The Deputy Commissioner shall appoint a headman in every village.

(*2*) In appointing a headman the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(*3*) When in any village there are two or more headmen, the Deputy Commissioner shall decide which of them is to be the headman for the purposes of this Act, and, with the previous sanction of the Commissioner, may make rules to define and regulate their relations to each other.

(*4*) The Deputy Commissioner may appoint a rural policeman or more than one such policeman in any village

Substitution of new clause for clause (*a*) of section 9, Act II of 1880.

4. For clause (*a*) of section 9 of the Burma District Cesses and Rural Police Act, 1880,[1] the following shall be substituted, namely :—

of 1880.

"(*a*) the remuneration of the headmen and the maintenance of the rural police appointed under the Lower Burma Village Act, 1889 ;"

[I of 1889.

Substitution of new section for section 45 of the Code of Criminal Procedure.

of 1882.

5. For section 45 of the Code of Criminal Procedure, 1882[2] the following shall be substituted, namely :—

Headman bound to report certain matters.

"**45.** (*1*) A headman appointed under the Lower Burma Village Act 1889, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village ;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender ;

[1] Printed, *supra*, p. 71.

[2] Read now the Code of Criminal Procedure, 1898 (Act V of 1898), *see* ss. 1 (2) and 3 (*1*) of that Code, printed, General Acts, Vol. VI, p. 380.

(*c*) the commission of, or attempt or intention to commit, within his village, any of the following offences, namely:—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

XI of 1878. (v) offence against the Indian Arms Act, 1878,[1] and

(vi) any other offence respecting which the Deputy Commissioner by general or special order, made with the previous sanction of the Commissioner, directs him to communicate information ;

(*d*) the occurrence in his village of any sudden or unnatural death, or of any death under suspicious circumstances.

"(*2*) In sub-section (*1*) 'village' has the meaning assigned to that word in the Lower Burma Village Act, 1889."

III of 1889.

Duties of headman.

6. (*1*) [2][The headman of a village shall be bound to perform the following public duties] namely—

(*a*) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882,[3] to communicate information ; X of 1882.

(*b*) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person ;

(*c*) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself ;

(*d*) to forward, as soon as may be, to the nearest police-station or military post, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence ;

(*e*) to resist any unlawful attack made upon the village;

(*f*) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct ;

[4](*g*) to collect and furnish, upon receipt of payment for the same in

[1] Printed, General Acts, Vol. III, p. 243.

[2] The words were substituted for the words "The headman of a village shall be bound", by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule. *Infra*, p. 278.

[3] *See* the second footnote on preceding page.

[4] Clause (*g*) was substituted for the original clause by the Lower Burma Villages and Towns Law Amendment Act, 1895 (XVIII of 1895), s. 1, printed, *infra*, p. 238.

The original clause (*g*) ran—"On the written order of the Deputy Commissioner, or other Magistrate not below the rank of Myo-ôk, to collect and furnish on payment supplies of food or carriage for troops or police posted in or near or marching through the village."

advance at such rates as the Deputy Commissioner, with the sanction of the Commissioner, may from time to time fix, guides, supplies of food, carriage and means of transport for any troops or police posted in or near or marching through the village or any servant of the Government travelling on duty and, on the written order of the Deputy Commissioner, for any traveller:

Provided that no headman shall be bound to collect supplies beyond the limits of the village of which he is headman, or to furnish carriage or means of transport for more than twelve hours' journey from such village:

Provided also that no headman shall requisition for personal service any resident of such village who is not of the labouring class and accustomed to do such work as may be required.

Explanation.—A servant of the Government proceeding on or returning from authorised leave shall be deemed to be on duty for the purposes of this clause.

(*h*) on the requisition of any Magistrate not below the rank of Myo-ôk, to furnish labourers for the making or repair of roads, embankments or other public works;

(*i*) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;

(*j*) to allot unoccupied land within the village for cultivation or house-building up to such limit and on such conditions as the Deputy Commissioner may direct;

(*k*) if so ordered, and in accordance with such rules [1] as may be made in this behalf by the Commissioner with the previous sanction of the Local Government, to register all births and deaths[2] which take place within the village and any other vital statistics which may be prescribed by such rules;

(*l*) [3][to take such measures for—

(*i*) the prevention of public nuisances,

(*ii*) the cure or prevention of the spreading of any contagious or infectious disease among domestic animals of any kind,

(*iii*) the prevention and extinction of fires,

[1] For rules under clauses (*k*) and (*l*), *see* the notifications noted on pp. 266 and 268 of the Burma Laws List, Ed. 1897.

[2] For rules for the registration of deaths of cattle, by village headmen, *see* Notification No. 178, Burma Gazette, 1899, Pt. I, p. 232.

[3] This clause was substituted for the original clause (*l*) by the Lower Burma Village Act (1889) Amendment Act, 1894 (XI of 1894), printed *infra*, p. 236.

The original clause ran—"to take such measures for the prevention of public nuisances and for the general sanitation of the village as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the Local Government."

(*iv*) the general sanitation of the village,

as may be prescribed in any rules[1] made in this behalf by the Commissioner with the previous sanction of the Local Government;]

(*m*) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and,

(*n*) generally, to assist all officers of the Government in the execution of their public duties.

(*2*) Every rural policeman shall be bound to perform such [public duties][2] similar to those imposed on a headman by sub-section (*1*) as may be imposed upon him by rules made by the Local Government in this behalf.

Disposal of petty criminal cases by headman.

7. [3] (*1*) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(*2*) The offences referred to in sub-section (*1*) are the following, namely:—

(*a*) assault;

(*b*) theft when the value of the property stolen does not exceed five rupees;

(*c*) mischief when the mischief causes damage to an amount not exceeding five rupees;

(*d*) criminal trespass; and

(*e*) any other offence which the Local Government may, by notification in the Burma Gazette, declare to be triable by a headman under sub-section (*1*).

(*3*) If the accused is convicted, he may be sentenced to fine not exceeding five rupees or, if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both.

(*4*) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case so triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to confinement for a term not exceeding fifteen days in such place as the Deputy Commissioner may appoint in this behalf, or to both.

[1] *See* first note on preceding page.

[2] These words were substituted for the word "duties," by the Burma Laws Act, 1898 (XIII of 1898). *See* the Third Schedule. *Infra*, p. 280.

[3] For notification empowering village headmen to try offences under s. 7 of the Burma Embankment Act, 1877 (XIII of 1877), *see* Burma Gazette, 1892, Pt. I, p. 134.

(*5*) Proceedings under this section shall be held in the presence of the complainant and the accused.

(*6*) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(*7*) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(*8*) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(*9*) A fee of one rupee may be levied on a complaint under sub-section (*1*) and of two rupees on a complaint under sub-section (*4*).

(*10*) No other fee shall be leviable in any case under this section.

(*11*) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him as if it were a fine imposed under this Act and be repaid to the complainant.

Penalty for neglect of duty or abuse of authority by headman or rural policeman.

8. If a headman or a rural policeman neglects to perform any of the [1][public duties] imposed upon him by this Act or any rule thereunder, or abuses any of the powers conferred upon him by this Act or any such rule, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Obligation on villagers to aid headman and rural policeman.

9. (*1*) Every person residing in a village shall, on the requisition of the headman or of a rural policeman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with the requisition of the headman or rural policeman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to confinement for a term not exceeding twenty-four hours in such place as the Deputy Commissioner may appoint in this behalf, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Civil jurisdiction of headman.

10. (*1*) The Local Government may, by notification in the Burma Gazette invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village, and may, by general or special order notified in the Burma Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

(*2*) The Local Government may at any time cancel or vary any such notification or order.

[1] These words were substituted for the word "duties," by the Burma Laws Act, 1898 (XIII of 1898), third Schedule, printed, *infra*, p. 280.

(*3*) In any suit tried in exercise of powers conferred under sub-section (*1*), the decision of the headman shall, subject to revision by such authority [1] as the Local Government may appoint in this behalf, be final.

(*4*) Notwithstanding anything in the Code of Civil Procedure,[2] a person shall not be bound to institute a suit in the Court of a headman. XIV of 1882.

(*5*) A fee of ten per centum of the value of the suit shall be paid on its institution in the Court of a headman, and no other fee shall be paid for the issue of processes or otherwise.

Notification of residence of strangers in villages.

11. (*1*) If any person comes into a village of which he is not a resident he or the person, if any, in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(*2*) The departure from a village of a person whose arrival has been reported under sub-section (*1*) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorized settlement of strangers in villages.

12. A person who is not a resident of a village shall not build any house, hut or enclosure, or take up his residence in the village, without the permission of the headman.

Penalty for breach of orders under immediately preceding sections.

13. If a person contravenes the provisions of section 11 or section 12, he shall be punished, on conviction by a Magistrate, with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

Penalty for holding, promoting or taking part in unlicensed *pwès*.

[3] **13A.** (*1*) Whoever holds a *pwè* in any village, without a licens granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).

Fine on villagers accessory to crime.

14. (*1*) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(*a*) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal;

[1] For instance of such direction, *see* notification published in the Burma Gazette, 1892, Pt. I, p. 586.

[2] Printed, General Acts, Vol. IV, p. 262.

[3] S. 13-A was inserted by the Lower Burma Villages and Towns Law Amendment Act, 1895 (XVIII of 1895), s. 2, printed, *infra*, p. 238.

(*b*) that they have suppressed or combined to suppress evidence in any criminal case;

(*c*) that stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(*2*) In either of the following cases, namely :—

(*a*) when a fine is imposed on the ground stated in clause (*a*) or in clause (*b*) of sub-section (*1*), and the offence of which the criminal is accused, or to which the criminal case relates, is mischief by fire, dacoity, robbery or cattle-theft,

(*b*) when a fine is imposed on the ground stated in clause (*c*) of sub-section (*1*),

a sum not exceeding the amount of any damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property

Fine on villagers where homicide is committed or attempted.

15. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not an opportunity of preventing the offence or arresting the offender, or

(*b*) have used all reasonable means to bring the offender to justice.

Power to require residents to remove from villages.

16. (*1*) When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

(*2*) If a person disobeys a requisition under sub-section (*1*), he shall be punished, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Mode of recovering fines.

17. (*1*) A fine imposed under this Act may be recovered as if it were an arrear of land-revenue.[1]

(*2*) A fine imposed under section 14 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-tax payable by the residents of the village or to the land-revenue payable in

[1] *See* the Burma Land and Revenue Act, 1876 (II of 1876), s. 45, *supra*, p. 18.

respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Provisions with respect to emoluments of headmen and rural policemen.

18. (*1*) The emoluments of a headman or rural policeman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(*2*) An assignment of or charge on, or an agreement to assign or charge, any such emoluments shall be void.

(*3*) Where the emoluments of a headman consist wholly or in part of a grant of land, the title to the grant shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

Protection to headman or rural policeman in execution of his duty.

19. No complaint against a headman or rural policeman of any act or omission punishable under this Act shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

Finality of orders.

20. (*1*) An appeal shall not lie from any order made under this Act.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, an order made under this Act shall be final and shall not be liable to be contested by suit or otherwise.

(*4*) The word "order" in this section does not include a decision of a headman in a suit tried in exercise of powers conferred under section 10, sub-section (*1*).

Delegation of powers of Deputy Commissioner to Assistant Commissioner.

21. The Local Government may authorize any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Act.

Power to make rules.

22. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules [1] consistent with this Act—

(*a*) [2] conferring on [3][headmen or on] rural policemen any powers or privileges which may be exercised or are enjoyed by police-officers under any enactment for the time being in force;

(*b*) prescribing the duties to be performed by rural policemen, including any duties imposed upon police-officers by any enactment for the time being in force;

[1] For general rules under the Act, *see* Burma Gazette, 1889, Pt. I, p. 361.

[2] For instances of powers conferred, *see* notification in Burma Gazette, 1895, Pt. I, p. 520.

[3] These words were inserted by s. 3 of the Lower Burma Villages and Towns Law Amendment Act, 1895 (XVIII of 1895), printed, *infra*, p. 239. For notification empowering village headmen to search for and arrest persons liable to be arrested by police officers under p. 54 of the Code of Crimina Procedure *see* Burma Gazette, 1895, Pt. I, p. 520.

(*c*) regulating the exercise, enjoyment and performance of those powers' privileges and duties by rural policemen ;

(*d*) regulating the emoluments of headmen and rural policemen ;

(*e*)[1] prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 10, sub-section (*1*), the record which he is to make of the suit and the mode in which that record is to be disposed of, the powers which he may exercise as regards the costs of the suit and of any proceeding arising thereout, the manner in which a decree or order made by him may be executed by himself, and the manner, circumstances and conditions in and on which such a decree or order may be sent for execution to, and be executed by, another headman or a Civil Court ;

(*f*)[1] for the disposal of fees levied under section 7, sub-section (*9*), and section 10, sub-section (*5*) ; and,

(*g*) [2] generally, for carrying into effect the purposes of this Act.

(*2*) All such rules shall be published in the Burma Gazette.

23. This Act shall take effect notwithstanding anything in any enactment for the time being in force. Effect of Act.

THE LOWER BURMA COURTS ACT, 1889.

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[1] For instances of these rules, *see* notification in Burma Gazette, 1892, Pt. I, p. 586.
[2] For example of these rules, *see* notifications in Burma Gazette, 1893, Pt. I, p. 594.

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33. Appointment of Civil Judges.
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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

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THE THIRD SCHEDULE.—ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.

ACT No. XI OF 1889.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*30th May, 1889.*]

An Act to consolidate and amend the law relating to the Courts, and declare the effect of certain enactments, in Lower Burma.

WHEREAS it is expedient to consolidate and amend the Law relating to the Courts, and to declare the effect of certain enactments, in Lower Burma; and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1887, Pt. V, p. 46; for the Report of the Select Committee, *see ibid*, Pt. V, p. 58; for Proceedings in Council, *see ibid*, 1887, Pt. VI, p. 20; 1889, Pt. VI, pp. 22, 34, 58, 60 and 113.

Ss. 46 and 47 of this Act have been declared in force in Upper Burma, by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra*, p. 266.

whereas the Secretary of State for India in Council has sanctioned and approved the passing of this Act; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Lower Burma Courts Act, 1889.

(*2*) Save in so far as it applies expressly or by necessary implication to other parts of British India (inclusive of Upper Burma and the Shan States), it extends to Lower Burma only; and

(*3*) It shall come into force at once.

Repeal.

2.[1] (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) Any enactment or document referring to any of the enactments in that schedule touching Courts in Burma, or to any enactment repealed by any of those enactments, or to any enactment repealed by the Burma Courts Act,[2] of 1872. 1872, shall, so far as may be, be construed as referring to this Act or to the corresponding portion thereof; and

(*3*) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed under any of the said enactments shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Act.

(*4*) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Act comes into force shall, if not invalid before that day, become invalid by reason of any repeal effected by this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "Lower Burma" means the territories for the time being comprised in Lower Burma under sub-sections (*1*) and (*2*) of section 2 of the Upper of 1886. Burma Laws Act, 1886:[3]

(*2*) "Shan States" means the territories for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886,[3] as Shan States for the purposes of that section and sections 6 and 7 of that Act:

[1] So much of s. 2 and of the First Schedule as relates to Act XX of 1886, has been repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule. *Infra*, p. 286.

Act VII of 1872 was repealed by Act XVII of 1875, which was in turn repealed by Act XI of 1889.

[3] *See* now the Burma Laws Act, 1898 (XIII of 1898), s. 3 (*d*) and (*e*) respectively, printed, *infra*, p. 260.

(*3*) [1] "Upper Burma" means the whole of Burma except Lower Burma and the Shan States:

(*4*) "High Court" means the High Court of Judicature at Fort William in Bengal:

(*5*) "Judicial Commissioner" means the Judicial Commissioner of Lower Burma:

(*6*) "Recorder" means the Recorder of Rangoon: and

(*7*) "Special Court" means the Special Court constituted under this Act.

CHAPTER II.

LAW TO BE ADMINISTERED.

4. [*Law to be administered by Courts under this Act.*] *Rep. by the Burma Laws Act, 1898 (XIII of 1898).*[2]

CHAPTER III.

THE COURT OF THE JUDICIAL COMMISSIONER AND THE COURTS SUBORDINATE THERETO.

Grades, Location and Control of Civil Courts.

Grades of Civil Courts.

5. Besides the Courts of Small Causes, the Court of the Recorder and the Special Court, and the Courts established under the Arakan Hills Civil Justice Regulation, 1874,[3] there shall be six grades of Civil Courts in Lower Burma, namely:— VIII of 1874.

(*a*) the Court of the Myo-ôk;

(*b*) the Courts of the Extra Assistant Commissioner and the Assistant Commissioner;

(*c*) the Court of the Deputy Commissioner;

(*d*) the Court of the Judge of the Town of Maulmain;

(*e*) the Court of the Commissioner; and

(*f*) the Court of the Judicial Commissioner.

Confirmation of existing Civil Courts.

6. All existing Courts of the grades specified in the last foregoing section shall be deemed to have been established under this Act.

[1] *Cf.* definition in s. 3 (*f*) of the Burma Laws Acts, 1898 (XIII of 1898). Printed, *infra*, p. 260.

[2] Printed, *infra*, p. 286, *see* the Fifth Schedule to the Act.

[3] Printed, *infra*, p. 292.

Number and local jurisdiction of Civil Courts.

7. The Local Government may, of its own authority, vary the number of Courts of the grade specified in clause (*a*) or (*b*) of section 5, and the local limits of the jurisdiction[1] of any such Court, and, with the previous sanction of the Governor General in Council, the number of Courts of the grade specified in clause (*c*) or (*e*) and the local limits of the jurisdiction of any such Court or of the Court of the Judge of the Town of Maulmain.

Place of sitting and seal of Civil Courts.

8. Every Court of a grade specified in section 5 shall—

(*a*) be held at such place or places as the Local Government directs,[1] or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the presiding officer thinks fit; and

(*b*) use a seal of such form and dimensions as the Local Government prescribes.[1]

Superintendence and control over Civil Courts.

9. (*1*) The general superintendence and control over all Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(*2*) Subject to such general superintendence and control of the Court of the Judicial Commissioner, the control over all the Courts in a division which are of the grades specified in clauses (*a*), (*b*) and (*c*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(*3*) Subject as aforesaid and to the control of the Court of the Commissioner, the control over all the Courts in a district which are of the grades specified in clauses (*a*) and (*b*) of section 5 shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner.

Ordinary Civil Jurisdiction.

Jurisdiction of the several grades of Civil Courts.

10. Subject to the provisions of this Act and of the Code of Civil Procedure,[2] the Provincial Small Cause Courts Act, 1887,[3] and any other enactment for the time being in force, the Courts mentioned in the first

XIV of 1882.
IX of 1887.

[1] For instances of the exercise of this authority, *see* notifications noted on pp. 204 to 208 of the Burma Rules Manual, Ed. 1897.

[2] Printed, General Acts, Vol. IV, p. 262.

[3] Printed, General Acts, Vol. V, p. 128.

column of the following table shall have such civil jurisdiction, respectively, as is specified in the second column thereof :—

Grades and name of Court.	Extent of jurisdiction.
1	2
(*a*) The Court of the Myo-ôk	Powers of a Civil Court for the adjudication of any suit of value not exceeding five hundred rupees.
(*b*) The Court of the Extra-Assistant Commissioner and the Court of the Assistant Commissioner.	Powers of a Civil Court for the adjudication of any suit of value not exceeding three thousand rupees.
(*c*) The Court of the Deputy Commissioner.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Power to hear appeals from original decrees and orders of Courts of Myo-ôks, Extra-Assistant Commissioners and Assistant Commissioners.
(*d*) The Court of the Judge of the Town of Maulmain.	Powers of a Civil Court for the adjudication of any suit without restriction as regards the value. Powers of a District Judge. Powers of a Provincial Court of Small Causes for the adjudication of any suit cognizable by such a Court and of value not exceeding one thousand rupees.
(*e*) The Court of the Commissioner.	As regards the Courts subordinate to the Court of the Commissioner, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure [1] on a District Court. Power to hear appeals from original decrees and orders of Courts of Deputy Commissioners.
(*f*) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Civil Courts in Lower Burma, except the Special Court, the Court of the Recorder and the Court of Small Causes of Rangoon. Power to hear appeals from original decrees and orders of Courts of Commissioners.

Special Civil Jurisdiction.

Enhancement of original jurisdiction of certain Civil Courts.

11. (*1*) The Local Government may, by notification in the Burma Gazette, invest any Myo-ôk with the powers of a Civil Court for the adjudication of suits of value not exceeding three thousand rupees and any Extra Assistant

[1] Printed, General Acts, Vol. IV, p. 262.

Commissioner or Assistant Commissioner with such powers for the adjudication of suits of value not exceeding five thousand rupees.

(*2*) A Myo-ôk, or an Extra Assistant Commissioner or Assistant Commissioner, who has been invested with powers under sub-section (*1*), shall, for the purposes of section 191 of the Code of Civil Procedure,[1] be deemed to be a successor to any Judge who has been prevented, from any such cause as is mentioned or referred to in that section, from concluding the trial of any suit which, if it were about to be instituted, would be cognizable by such Myo-ôk or such Extra Assistant Commissioner or Assistant Commissioner in exercise of those powers.

XIV of 1882.

Power to invest certain Courts with Small Cause Court jurisdiction.

12. The Local Government may, by a like notification, confer, within such local limits as it thinks fit, upon any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,[2] for the trial of suits cognizable by such Courts, up to such value not exceeding one hundred rupees in the case of a Myo-ôk, or five hundred rupees in the case of an Extra Assistant Commissioner or Assistant Commissioner, as it thinks fit and may withdraw any jurisdiction so conferred.

IX of 1887.

Exercise by one Civil Court of jurisdiction within local jurisdiction of another such Court.

13. The Local Government may, by a like notification, empower the presiding officer of any Court of a grade specified in clause (*a*), (*b*), (*c*) or (*e*) of section 5 to exercise within the local limits of the jurisdiction of any other Court of the same grade all or any of the powers which might be exercised by the presiding officer of the other Court.

Power to confer powers of Court of Deputy Commissioner on certain district officers.

14. (*1*) The Local Government may, by a like notification, confer upon the officer in chief executive charge of any district the powers which might be exercised within the district by the Court of a Deputy Commissioner.

(*2*) Where such powers are so conferred upon such an officer, the officer shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner and his Court the Court of a Deputy Commissioner.

Civil Procedure.

Procedure where the presiding officer of a Court is personally interested in a case.

15. (*1*) The presiding officer of a Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*) or (*e*) of section 5 shall not, without the consent of the parties or authority from the Court to which he is immediately subordinate, adjudicate upon any suit or other proceeding to which he is a party or in which he is

[1] Printed, General Acts, Vol. IV, p. 262.
[2] Printed, General Acts, Vol. V, p. 128.

personally interested, or upon any appeal from a decree or order passed by himself.

(2) When any such proceeding or appeal comes before the presiding officer of any such Court, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(3) The Court to which the record is so transmitted shall thereupon either authorise such presiding officer to proceed with the case or itself dispose thereof under section 25 of the Code of Civil Procedure.[1] XIV of 1882.

(4) In either of the following cases, namely :—

(*a*) if an appeal is preferred to the Judicial Commissioner from a decree or order which was passed by him in any other capacity or in which he is personally interested,

(*b*) if an application is made to him for the revision of such a decree or order,

he shall, unless the parties consent to his proceeding with the case himself, transmit the record to the Local Government with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Recorder.

Power of Deputy Commissioner to distribute business.

16. Notwithstanding anything in the Code of Civil Procedure,[1] a Deputy Commissioner may, by written order, direct that any business cognizable under this Act by his Court and the Courts under his control shall be distributed[2] among those Courts in such manner as he thinks fit.

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Language of plaints and of record of evidence in Civil Courts.

17. Notwithstanding anything in the same Code, plaints may be written and evidence may be taken down in such language or languages as the Local Government directs[3] in this behalf.

Civil Appeals and References.

Time for appeal to Commissioner.

18. (1) The period of limitation for an appeal to the Court of the Commissioner shall be forty-two days.

(2) In the computation of that period and in all other respects the limita-

[1] Printed, General Acts, Vol. IV, p. 262.

[2] For rules under this section, *see* notifications noted on pp. 284 and 286 of the Burma Laws List, Ed. 1897.

[3] For instance of such direction, *see* notification noted on p. 207 of the Burma Rules Manual, Ed. 1897.

tion of the appeal shall be governed by the provisions of the Indian Limitation
XV of 1877. Act,[1] 1877.

Transfer of civil appellate jurisdiction to Commissioner and Judicial Commissioner.

19. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the civil appellate jurisdiction of the Court of any Commissioner or Deputy Commissioner shall be transferred to the Court of the Judicial Commissioner or Commissioner, respectively, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

Conferment of appellate powers on Assistant and Extra Assistant Commissioners.

20. (*1*) The Local Government may, by notification in the Burma Gazette, confer upon any Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk, Extra Assistant Commissioner or Assistant Commissioner, and upon any Extra Assistant Commissioner power to hear appeals from original decrees and orders of any Myo-ôk or Extra Assistant Commissioner, and may withdraw such power.

(*2*) An Assistant Commissioner or Extra Assistant Commissioner, upon whom power to hear appeals has been conferred under sub-section (*1*), shall, for purposes connected with the exercise thereof, be deemed to be a Deputy Commissioner.

Reference to Judicial Commissioner during progress of an appeal.

21. (*1*) When in the trial of any civil appeal an Appellate Court subordinate to the Court of the Judicial Commissioner entertains a doubt in regard to a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the question in regard to which it entertains the doubt, and refer it, with the Court's own opinion on the question, for the decision of the Judicial Commissioner.

(*2*) The Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the Court by which the reference was made, and that Court shall, on the receipt of the ruling, proceed to dispose of the case in conformity therewith.

(*3*) The costs, if any, consequent on any such reference to the Judicial Commissioner shall be costs in the appeal out of which the reference arose.

Admission of second appeals by Judicial Commissioner.

22. If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner reverses or modifies an original decree or order, the Judicial Commissioner may receive a second appeal if, on a perusal

[1] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Finality of concurrent dicisions of original and first appellate Courts on matters of fact.

23. If the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a matter of fact, the appellate decree or order shall be final.

Reference or appeal to Judicial Commissioner with respect to concurrent decisions of original and first appellate Courts on questions of law.

24. (*1*) If in any case the appellate decree or order of the Court of a Deputy Commissioner or Commissioner confirms an original decree or order on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, any party considering himself aggrieved by such appellate decree or order may apply to the Court of the Deputy Commissioner or Commissioner, as the case may be, either to draw up a statement of the question and submit the statement to the Judicial Commissioner, or to allow him to appeal on the question to the Judicial Commissioner.

(*2*) Such application shall not be admitted unless it is made within the period prescribed for an appeal to the Court of the Deputy Commissioner or Commissioner, as the case may be.

(*3*) If the Court, on an application for the drawing up of a statement, considers that there is a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case, it shall draw up a statement of the question and of such facts only of the case as are necessary to explain it, and shall submit the statement, together with the record of the case, to the Judicial Commissioner.

(*4*) If the Court refuses to draw up such statement, it shall record in writing its reasons for so refusing, and a certified copy of the reasons shall, on application to the Court, be furnished to any party to the case.

(*5*) In the case of an application to be allowed to appeal to the Judicial Commissioner, the period during which the application was pending in the Court of the Deputy Commissioner or Commissioner shall, if the appeal is allowed, be excluded in the computation of the period of limitation for an appeal to the Judicial Commissioner.

Disposal of references

25. (*1*) When a case has been referred with a statement under the last foregoing section, the Judicial Commissioner shall, on payment in respect of

the statement of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court, and shall send a copy of his judgment and of his decree or order in the case to the Court by which the statement was submitted. under last foregoing section.

(2) If the statement appears to the Judicial Commissioner to be unduly limited, he may amend it as he thinks fit.

(3) Notwithstanding anything in sub-section (1), it shall not be necessary for any party to the case referred to be present either personally or otherwise at the trial thereof by the Judicial Commissioner.

26. (1) In any case in which the Court of a Deputy Commissioner or Commissioner has, in the opinion of the Judicial Commissioner, wrongly refused to submit a statement or allow an appeal under section 24, the Judicial Commissioner may call for the record of the case, and may, on receipt of the record and on payment of the fee which would be payable in the case in respect of a memorandum of appeal to his Court, proceed to try the case as if it were an appeal instituted in his Court. Power to call for record where reference or appeal to Judicial Commissioner has been wrongly refused.

(2) Where the Judicial Commissioner so tries the case, he shall send a copy of his judgment and of his decree or order therein to the Court of the Deputy Commissioner or Commissioner, as the case may be.

27. (1) If any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence arises in a case before the Court of the Judicial Commissioner under this Act, and the Judicial Commissioner, by reason of such question arising, entertains any doubt as to the decision to be passed in the case, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question. Reference of questions of law by Judicial Commissioner to High Court.

(2) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Judicial Commissioner a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(3) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(4) Where the Judicial Commissioner makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a

decree or order shall be of such effect as is mentioned in section 618 of the Code of Civil Procedure.[1] XIV of 1882

(5) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Criminal Jurisdiction.

Judicial Commissioner as High Court.

28. Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the Court of the Judicial Commissioner shall be the highest Court of criminal appeal or revision for the whole of Lower Burma beyond the limits of the ordinary civil jurisdiction of the Recorder.

Divisional Commissioners as Courts of Session.

29. (*1*) Subject to the provisions of sections 7 and 9 of the Code of Criminal Procedure, 1882,[2] with respect to the alteration of the limits of sessions divisions and the appointment of Additional Sessions Judges to exercise jurisdiction in Courts of Session, each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session. X of 1882.

(*2*) For the purposes of sub-section (*1*) the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder and the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be deemed not to be included in the divisions in which they are respectively situate.

Court of Session for Town of Maulmain.

30. The area for the time being comprised within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be a sessions division, that Court shall be the Court of Session for the sessions division, and the Judge of that Court shall be the Judge of the Court of Session.

Power to transfer criminal jurisdiction of Commissioner to Judicial Commissioner.

31. (*1*) The Local Government may, by order notified in the Burma Gazette, direct that the criminal jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner either wholly or in respect of a particular case or class of cases, and either for a specified time or until further orders.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceeding pending at the date of the cancelling order.

[1] Printed, General Acts, Vol. IV, p. 262.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

Provisions with respect to transferred Jurisdiction.

Application of Acts VII of 1870 and XV of 1877 to certain transferred proceedings.

32. When any civil or criminal appellate jurisdiction has been transferred under section 19 or section 31—

VII of 1870.

(*a*) fees shall be payable under the Court-fees Act, 1870,[1] and any rules thereunder, at the rates at which they would be payable in the Court from which the jurisdiction was transferred ; and

(*b*) all appeals and applications presented to a Court in the exercise of the jurisdiction so transferred shall, for the purposes of the law relating to limitation, be deemed to have been presented to the Court in the exercise of its ordinary jurisdiction.

Appointment and Removal of Officers.

Appointment of Civil Judges.

33. (*1*) The Judicial Commissioner shall be appointed by the Governor General in Council.

(*2*) The presiding officers of Courts of the grades specified in clauses (*a*), (*b*), (*c*), (*d*), and (*e*) of section 5 may be appointed by the Local Government.

Suspension and removal of Civil Judges.

34. (*1*) The presiding officer of a Court of a grade specified in any clause of section 5 may be suspended or removed by the Governor General in Council.

(*2*) The presiding officer of any such Court, except the Court of the Judicial Commissioner, may be suspended or removed by the Local Government.

Appointment of ministerial officers of Civil Courts.

35. (*1*) The ministerial officers of Courts of the grades specified in clauses (*a*) and (*b*) of section 5 shall be appointed by the Deputy Commissioner to whose Court those Courts are subordinate.

(*2*) The ministerial officers of Courts of other grades specified in section 5 shall be appointed by the presiding officers of those Courts.

(*3*) The foregoing sub-sections are subject to the proviso that the appointment of a ministerial officer to an office in the Court of a grade specified in clause (*a*), (*b*), (*c*), (*d*), or (*e*) of section 5 shall, if the monthly salary attached to the office exceeds fifty rupees, be subject to the sanction of the Judicial Commissioner.

Powers to fine or remove such officers.

36. (*1*) A Court of a grade specified in clause (*a*) or (*b*) of section 5 may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

(*2*) The Deputy Commissioner may on appeal or otherwise remit or reduce any fine imposed under sub-section (*1*), and may himself dismiss or suspend,

[1] Printed, General Acts, Vol. II, p. 124.

or fine up to the amount of one month's salary, any ministerial officer of his own Court or of any Court subordinate to his Court.

(*3*) A Court of a grade specified in clause (*d*), (*e*) or (*f*) of section 5 may dismiss or suspend any of its ministerial officers or fine any such officer in an amount not exceeding one month's salary.

CHAPTER IV.

THE COURT OF THE RECORDER.

The Recorder.

Court of Recorder of Rangoon.

37. (*1*) There shall continue to be a Court to be called the Court of the Recorder of Rangoon.

(*2*) The Recorder shall be appointed by the Governor General in Council, and shall be a barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

(*3*) He shall ordinarily hold his Court at Rangoon, but the Local Government may direct him on any particular occasion to hold his Court at any other place in Lower Burma for the trial of any civil case transferred to him, or at any other place in Lower Burma or Upper Burma for the trial of any criminal case in which a European British subject is concerned.

(*4*) A direction given by the Local Government under sub-section (*3*) with respect to any criminal case shall take effect notwithstanding anything in section 336 of the Code of Criminal Procedure, 1882.[1] X of 1882.

(*5*) The Recorder shall use a seal of such form and dimensions as the Local Government prescribes.[2]

Civil Jurisdiction.

Variation of local limits of ordinary civil jurisdiction of Recorder.

38. The Local Government may, with the previous sanction of the Governor General in Council, vary [3] the local limits of the ordinary civil jurisdiction of the Recorder.

Civil jurisdiction of Recorder.

39. (*1*) Subject to the provisions of this Act and of the Provincial Small Cause Courts Act, 1887,[4] and any other enactment for the time being in force, IX of 1887. the Recorder shall have the powers of a District Judge within the local limits of his ordinary civil jurisdiction, and may adjudicate upon any suit, without

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI, p. 380.

[2] *See* notification as to seals noted on p. 207 of the Burma Rules Manual, Ed. 1897.

[3] For instance of such action, *see* Notification No. 59, Burma Gazette, 1875, Pt. II, p. 149.

[4] Printed, General Acts, Vol V, p. 128.

restriction as regards the value, if, in the case of immoveable property, the subject-matter of the suit or any part thereof is situate, or if, in any other case, the cause of action or a material part thereof has arisen, or the defendant at the time of the commencement of the suit dwells, or either personally or by his servant or agent carries on business or works for gain, within those limits.

(*2*) A corporation or company having an office within those limits shall, when the cause of action, or a material part thereof, has arisen in Burma, or in any foreign territory adjacent thereto, be deemed, for the purpose of this section, to carry on business at such office.

Appeal from original decrees and orders of Recorder.

40. Save as otherwise provided by any enactment for the time being in force, an appeal shall lie to the High Court from an original decree or order passed by the Recorder in any suit or other civil proceeding of which the amount or value of the subject-matter is less than ten thousand rupees.

New trial and review by Recorder.

41. (*1*) The Recorder may, if he thinks fit, grant a new trial in any suit or other civil proceeding disposed of by him, if, in a suit relating to immoveable property, the new trial is applied for within ninety days from the date of the decree, and if, in any other case, it is applied for within thirty days from the date of the decree or order:

Provided that nothing in this section shall interfere with the power of the Recorder to allow a review of judgment under the Code of Civil Procedure,[1] if such review is applied for within the period allowed for making the application:

XIV of 1882.

Provided also that the Recorder may, if he thinks fit, before granting a new trial or a review, require the party applying therefor to give sufficient security for due compliance with the terms of the decree or order to which the application relates, or for payment of the costs of the new trial or review, or for both purposes.

(*2*) Where a person has become liable as surety under the second proviso to sub-section (*1*), the security may be realised in manner provided by section 253 of the Code of Civil Procedure.[1]

XIV of 1882.

Reference of cases by Recorder to High Court and procedure thereon.

42. (*1*) If in any case before the Recorder any question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence affecting the merits of the case arises on which the Recorder entertains any doubt, he may, if he thinks fit, draw up a statement of the question and submit it to the High Court with the record of the case and his own opinion on the question.

(*2*) On receiving the statement the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Recorder a copy of its judgment under the signature of its Registrar, and

[1] Printed, General Acts, Vol. IV, p. 262.

the Recorder shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) Where the Recorder makes a reference to the High Court under this section, he may make such a contingent decree or order, and such a decree or order shall be of such effect, as is mentioned in section 618 of the Code of Civil Procedure.[1]

(*5*) The costs, if any, consequent on a reference to the High Court under this section shall be costs in the case.

Procedure where Recorder is personally interested in a case.

43. (*1*) When any suit or other civil proceeding comes before the Recorder to which he is a party or in which he is personally interested, he shall, unless the parties consent to his proceeding therewith himself, transmit the record to the Local Government, with a report of the circumstances attending the reference, and thereupon that Government may transfer the case for trial to the Court of the Judicial Commissioner.

(*2*) In the disposal of a case so transferred the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in a like case, and the decree or order made in the case by the Judicial Commissioner shall, for the purposes of the law relating to appeal, be deemed to be made by the Recorder.

Recorder as High Court for certain purposes.

44. The Court of the Recorder shall—

(*a*) for the purposes of the Suits Valuation Act, 1887,[2] and VII of 1887.

(*b*) in respect of the Court of Small Causes of Rangoon,

be deemed to be a High Court.

Criminal Jurisdiction.

Recorder as Court of Session for Rangoon.

45. The area for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder shall be a sessions division, the Court of the Recorder shall be the Court of Session for the sessions division, and the Recorder shall be the Judge of the Court of Session.

Recorder as High Court for Burma in

46.[3] (*1*) The Recorder shall be the High Court for the whole of Burma (inclusive of Upper Burma and the Shan States) in reference to proceedings

[1] Printed, General Acts, Vol. IV, p. 443.
[2] Printed, General Acts, Vol. V, p. 123.
[3] Sections 46 and 47 have been declared in force in Upper Burma, except the Shan States, by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra*, p. 266.

against European British subjects and persons jointly charged with European British subjects. reference to proceedings against European British subjects.

(*2*) When the Recorder, as the High Court for Burma under sub-section (*1*), in reference to such proceedings, passes sentence of death, the proceedings shall be submitted to the High Court of Judicature at Fort William in Bengal, and the sentence shall not be executed unless it is confirmed by that High Court.

(*3*) When proceedings are submitted to the High Court under sub-section (*2*), that Court shall, as a High Court, deal therewith, under the provisions, *mutatis mutandis*, of chapter XXVII of the Code of Criminal Procedure,[1] 1882, as if they had been submitted by a Court of Session and the Recorder were the Sessions Judge. X of 1882.

(*4*) If in any case before the Recorder as a High Court under this section any such question arises as is referred to in section 42, and the Government Advocate certifies that in his opinion there is an error in the decision of the question, the Recorder shall make a reference to the High Court in the manner required by that section, and shall, on receipt of the copy of the judgment of the High Court, review the case or such part of it as may be necessary, and may thereupon reduce or remit any sentence which he has passed.

47.[2] So far as the last foregoing section relates to the Shan States, it shall come into force therein at once notwithstanding anything in section 8, sub-section (*2*), of the Upper Burma Laws Act, 1886,[3] or in section 3, sub-section (*1*), of the Shan States Act, 1888. Effect of the last foregoing section with respect to Shan States. XX of 1886. XV of 1888.

48. The Court of the Recorder shall— Recorder as High Court for certain purposes.

(*a*) for the purposes of section 527 of the Code of Criminal Procedure, 1882,[4] and X of 1882.

(*b*) in respect of the Magistrates within the local limits of its ordinary civil jurisdiction and the proceedings of such Magistrates, be deemed to be a High Court.

Admiralty Jurisdiction.

49. [*Admiralty jurisdiction of Recorder.*] *Rep. by Act XVI of 1891.*

Insolvency Jurisdiction.

50. (*1*) Within the local limits of the ordinary civil jurisdiction of the Recorder and of the jurisdiction of the Court of the Judge of the Town of Maulmain, the Recorder shall have and exercise such powers and authorities Insolvency jurisdiction of Recorder

[1] *See* now Ch. XXVII of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

[2] *See* the third footnote on preceding page.

[3] *See* now the Burma Laws Act, 1898 (XIII of 1898), ss. 4 (*2*) and 10 (*2*), respectively. Printed, *infra*, p. 262.

[4] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

with respect to insolvent debtors and their creditors as are for the time being exerciseable with respect to insolvent debtors and their creditors by the High Court or a Judge thereof in Calcutta.

(*2*) The procedure in cases brought before the Recorder in the exercise of such jurisdiction shall be, as far as may be practicable, in accordance with the procedure prescribed by the Statute 11 and 12 Victoria, Chapter 21, as amended by any enactment for the time being in force.

(*3*) The Recorder shall, with the previous sanction of the Local Government, appoint a person to be official assignee in all insolvencies prosecuted in the Court of the Recorder, and the provisions of the said Statute relating to official assignees shall, *mutatis mutandis* and subject to the other provisions of this section, apply to the assignee so appointed.

(*4*) Every order made by the Recorder in the exercise of the jurisdiction conferred by this section shall have the same force throughout British India as if it had been made by the High Court or a Judge thereof, and all the provisions of the said Statute relating to the persons or property of insolvents shall, *mutatis mutandis*, apply to insolvents applying for relief under this section.

(*5*) Any person considering himself aggrieved by any adjudication, order or proceeding of the Recorder under this section may, within thirty days from the date thereof, present a petition to the Special Court, and that Court shall enquire into the matter of the petition and make such order thereon as it thinks just, and such order shall be final and conclusive on all parties, and shall be binding on the Court of the Recorder.

(*6*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules [1] consistent with this Act for facilitating within his jurisdiction the relief intended to be hereby given.

(*7*) No conveyance, letter-of-attorney or other instrument executed under any order of the Recorder in exercise of the jurisdiction conferred by this section shall be chargeable with stamp-duty.

Power to vest in Judge of Town of Maulmain the insolvency jurisdiction vested in Recorder in that Town.

51. (*1*) The Local Government may, by order [2] notified in the Burma Gazette, direct that, from a date to be therein specified, the jurisdiction vested by the last foregoing section in the Recorder within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain shall be vested in the Judge of that Town.

[1] For rules for facilitating the relief of insolvent debtors within the jurisdiction of the Court of the Judge of Maulmain and the Recorder, *see* Burma Gazette, 1890, Pt. IV, pp. 444 and 586. *See* also Burma Gazette, 1892, Pt. IV, p. 127.

[2] For instance of such order, *see* notification noted on p. 208 of the Burma Rules Manual, Ed. 1897.

(*2*) While any such order is in force, the last foregoing section shall, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain, have effect as if it referred to the Judge of that Town instead of the Recorder, and all cases pending at the date of the order shall be disposed of accordingly:

Provided that the Recorder may withdraw from the Court of the Judge and dispose of in his own Court any case, whether pending at the date of the order or subsequently instituted, which, by reason of its importance or otherwise, may, in his opinion, be more conveniently so disposed of.

(*3*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order.

XIV of 1882.

Inapplicability of Chapter XX, Act XIV, 1882, to Rangoon and Maulmain.

52. Nothing in Chapter XX of the Code of Civil Procedure [1] shall apply to any Court having jurisdiction within the local limits of the ordinary civil jurisdiction of the Recorder or of the civil jurisdiction of the Court of the Judge of the Town of Maulmain.

XVII of 1875.
XIV of 1885.

Temporary continuance of insolvency jurisdiction of Recorder at Bassein and Deputy Commissioner at Akyab.

53. The provisions of section 66 of the Burma Courts Act, 1875,[2] and section 2 of the Burma Courts Act, 1885,[2] shall continue to apply, as if this Act had not been passed, to any proceedings pending immediately before the commencement of this Act in the Courts of the Recorder and the Deputy Commissioner of Akyab as Courts for the Relief of Insolvent Debtors within the towns of Bassein and Akyab under those sections.

Registers and Returns.

Books and accounts, and statements and returns, to be kept and furnished by Recorder.

54. (*1*) The Recorder shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Local Government such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Local Government.

(*2*) The Recorder shall also comply, in such form and manner as the Local Government may deem proper, with such requisitions as may be made by the Local Government for records of, or papers belonging to, the Court of the Recorder or any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or for certified copies of, or extracts from, such records or papers or for returns, statements or reports.

[1] Printed, General Acts, Vol. IV, p. 262.
[2] Acts XVII of 1875 and XIV of 1885 are repealed by this Act.

Ministerial Officers.

Appointment and removal of ministerial officers.

55. The ministerial officers of the Court of the Recorder, including the Registrar of the Court, shall be appointed, and may be dismissed or suspended or fined in an amount not exceeding one month's salary, by the Recorder, but the suspension or dismissal of any such officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Discharge of non-judicial functions by Registrar.

56. (*1*) Any non-judicial or quasi-judicial act which is required by the Code of Civil Procedure[1] to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394[1] of that Code, may in the Court of the Recorder be done by the Registrar of the Court or by such other officer of the Court as the Recorder may direct. XIV of 1882

(*2*) The Recorder may from time to time, by rule[2] made with the previous sanction of the Local Government, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of sub-section (*1*).

Exceptional Provisions.

Discharge of functions of Recorder in case of vacancy in his office.

57. Upon the occurrence of any vacancy in the office of Recorder, and during any absence of the Recorder, the Local Government may direct the Judicial Commissioner or any Commissioner to discharge the functions of the Recorder, and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder and to exercise the jurisdiction of the Recorder until some person has been appointed by the Governor General in Council to fill, or officiate in, the office of the Recorder, and has entered upon the performance of the duties of such office, or until the Recorder resumes his duties.

Transfer of civil cases from other Courts in Lower Burma to the Court of Recorder.

58. (*1*) The Local Government may direct the transfer to the Court of the Recorder of any civil case which may be pending in the Court of the Judicial Commissioner or in any Court subordinate to the Court of the Judicial Commissioner.

(*2*) Subject to the other provisions of this Act, every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in the case and it had been instituted in his Court.

Transfer of cases from Court of Recorder to Court of Judicial Commissioner.

59. (*1*) The Local Government may transfer to the Court of the Judicial Commissioner any particular case or class of cases which may be pending in the Court of the Recorder.

[1] Printed, General Acts, Vol. IV, p. 266.
[2] For instance of such rule, *see* notification in Burma Gazette, 1890, Pt. IV p. 572.

(*2*) In the disposal of any such case the Judicial Commissioner shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in such a case.

(*3*) All decrees, orders and sentences made or passed by the Judicial Commissioner in cases transferred to him under this section shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation, be deemed to be made or passed by the Recorder.

Appointment of Additiona Recorder.

60. (*1*) The Governor General in Council may, by notification in the Gazette of India, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder, such person as he thinks fit being a barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge or exercised the like powers as those of a District Judge.

(*2*) A person so appointed shall hold his office during the pleasure of the Governor General in Council.

Disposal of business by Additional Recorder.

61. (*1*) An Additional Recorder appointed under the last foregoing section shall sit at such of the places at which the Recorder's Court can be held as the Local Government directs, and shall dispose of such cases pending in the Recorder's Court as the Local Government or, subject to the control of that Government, the Recorder may from time to time direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the Recorder in like cases.

(*2*) All decrees, orders and sentences made or passed in such cases by an Additional Recorder shall, for the purposes of the law relating to appeal, reference and revision and to the submission of sentences of death for confirmation be deemed to be made or passsd by the Recorder.

(*3*) The Local Government may cancel any direction under sub-section (*1*) requiring the Additional Recorder to dispose of a case.

CHAPTER V.

The Special Court.

Constitution of Special Court.

62. (*1*) The Special Court shall ordinarily be constituted by the Judicial Commissioner and the Recorder sitting together.

(*2*) But the Local Government may direct that for the hearing of any particular case or class of cases the Special Court shall be constituted by

the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together, and the Local Government may cancel any such direction.

(*3*) As members of the Special Court, the Judicial Commissioner and the Recorder shall have precedence over the Judge of the Town of Maulmain, and shall, as between themselves, have precedence according to priority of appointment.

(*4*) For the purposes of the last foregoing sub-section, a Judicial Commissioner or Recorder substantively appointed shall be deemed to have precedence, by reason of priority of appointment, over an officiating Recorder or Judicial Commissioner, as the case may be.

Sittings, seal and officers of Special Courts.

63. (*1*) The Special Court shall ordinarily be held at Rangoon, but the Local Government may direct it to be held at any other place in Lower Burma.

(*2*) The Special Court shall use a seal[1] of such form and dimensions as the Local Government prescribes.

(*3*) The Judicial Commissioner and the Recorder may appoint, suspend or dismiss the ministerial officers of the Special Court :

Provided that the suspension or dismissal of any officer drawing a monthly salary of one hundred rupees or upwards shall be subject to confirmation by the Local Government.

Appeals to Special Court from Judge of Maulmain.

64. Appeals from decrees and orders passed by the Judge of the Town of Maulmain in suits and other civil proceedings shall, where such appeals are allowed by law, be heard and determined by the Special Court.

Trial of cases before Special Court by order of Local Government.

65. The Local Government may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or in the Court of the Recorder, shall be transferred to and tried before the Special Court.

Special Court as High Court in certain criminal matters.

66. With reference to trials held by the Judicial Commissioner in the exercise of the original criminal jurisdiction of a Court of Session under section 31 of this Act or of a High Court under section 526 of the Code of Criminal Procedure, 1882,[2] or by the Recorder in exercise of the original jurisdiction of a Court of Session, and to sentences passed on such trials, the Special Court shall, for the purposes of the said Code, be deemed to be a High Court. X of 1882.

Sittings of Special Court at request

67. If in any civil suit or appeal or in any criminal case or appeal pending in the Court of the Judicial Commissioner or in the Court of the Recorder, the

[1] For notification dealing with the subject of this sub-section, *see* p. 208 of the Burma Rules Manual, Ed. 1897.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898). Gen. Acts Vol. VI, p. 540.

of Judicial Commissioner or Recorder.

Court wishes to obtain the opinion of the Special Court on any question of fact or law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, or to obtain the assistance of the Special Court for the determination of the case pending before it, such Court shall record a memorandum to that effect, and the Special Court shall, as soon as may be convenient, sit for the disposal of the question or for the determination of the pending case.

Decree of Special Court to be deemed decree of other Court in certain cases.

68. Any decree, order or sentence passed by the Special Court in a case tried under section 65, or on a memorandum recorded under section 67, shall issue as, and be deemed to be, a decree, order or sentence of the Court from which the case was referred to the Special Court.

Rules as to finding of Special Court in case of difference of opinion.

69. (*1*) Whenever, in cases before the Judicial Commissioner and the Recorder sitting together as the Special Court, a difference of opinion arises, the following rules shall be observed :—

(*a*) In cases coming before the Special Court under section 67, the opinion of the Court which sought the opinion of the Special Court shall prevail unless the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and both members of the Special Court concur in stating the question and forwarding such statement, with their respective opinions on the question, to the High Court.

(*b*) In cases coming before the Special Court by way of appeal, and not being criminal cases or cases provided for by clause (*a*) of this sub-section, if both members of the Special Court do not concur in a judgment varying the decree or order appealed from, such decree or order shall be upheld :

Provided that, if the difference of opinion is on a question of law or of custom having the force of law or as to the construction of any document or the admissibility of any evidence, and either member of the Special Court is of opinion that the question should be referred to the High Court, both members shall state the question and forward such statement, with their respective opinions on the question, to the High Court.

(*c*) In criminal cases, and in cases not coming before the Special Court by way of appeal, and not being cases provided for by clause (*a*) of this sub-section, both members of the Special Court shall state the question as to which they differ, and forward such statement, with their respective opinions on the question, to the High Court.

(*2*) Whenever, in cases before the Judicial Commissioner, the Recorder and the Judge of the Town of Maulmain sitting together as the Special Court, a difference of opinion arises, the decision shall be in accordance with the opinion of the majority of the members of the Court.

Procedure of High Court on reference under the last foregoing section.

70. (*1*) On receiving a statement forwarded in any case under the last foregoing section, the High Court, by a bench constituted by two or more Judges, shall decide the question referred therein and transmit to the Special Court a copy of its judgment under the signature of its Registrar, and the Judicial Commissioner and the Recorder sitting together as the Special Court shall, on receipt of the copy, proceed to dispose of the case in conformity with the decision of the High Court.

(*2*) Until the case is so disposed of, it shall be deemed to be pending in the Special Court.

(*3*) It shall not be necessary for any party to the case to be present in the High Court, either personally or otherwise, when the question referred comes before that Court for decision.

(*4*) The costs, if any, consequent on the statement of the question for the decision of the High Court shall be costs in the case.

Special Court to be deemed High Court for the purposes of Acts VII of 1870 and XV of 1877.

71. (*1*) For the purposes of the Court-fees Act, 1870,[1] the Special Court shall be deemed to be a High Court in the exercise of its jurisdiction as a Court of Appeal or as a Court of Reference, as the case may be. VII of 1870.

(*2*) For the purposes of the Indian Limitation Act, 1877,[2] appeals and applications to the Special Court shall be deemed to be, respectively, appeals and applications to a High Court under the Code of Criminal Procedure, 1882,[3] or under the Code of Civil Procedure,[4] as the case may be. XV of 1877. X of 1882. XIV of 1882.

Substitution of Additional Recorder for Judge of Town of Maulmain for purposes of this Chapter.

72. If at any time there is an Additional Recorder appointed under section 60, the foregoing provisions of this Chapter with respect to the Judge of the Town of Maulmain shall, while the Additional Recorder holds office, be construed as referring to the Additional Recorder and not to the Judge of the Town of Maulmain.

CHAPTER VI.

ADVOCATES.

In the Court of the Recorder and the Courts subordinate thereto.

Licensing of

73. (*1*) Subject to the other provisions of this Chapter, no person shall be

[1] Printed, General Acts, Vol. II, p. 124.
[2] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.
[3] *See* now Act V of 1898, General Acts, Vol. VI, p. 380.
[4] Printed, General Acts, Vol. IV, p. 262.

permitted to appear, plead or act as an advocate in the Court of the Recorder or in any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, or in the Court of the Judicial Commissioner, when the Judicial Commissioner is disposing of a case transferred to him under section 43 or section 59, unless such person has been licensed thereto by the Recorder, either generally or specially. advocates by Recorder.

(*2*) The Recorder may from time to time, with the previous sanction of the Local Government, make rules[1] for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts.

74. (*1*) The Recorder may, for any sufficient reason, by order suspend or withdraw any license granted by him under the last foregoing section. Suspension or withdrawal of license by Recorder.

(*2*) Any person aggrieved by an order of the Recorder under sub-section (*1*) may appeal to the High Court, and, for the purposes of the Indian Limitation Act, 1877,[2] his appeal shall be deemed to be an appeal under the Code of Civil Procedure.

XV of 1877.

XIV of 1882.

In the Court of the Judicial Commissioner and the Courts subordinate thereto.

75. (*1*) Subject to the other provisions of this Chapter, no person shall be permitted to appear, plead or act as an advocate in the Court of the Judicial Commissioner, or in any Court, whether civil or criminal, subordinate thereto, or in the Court of the Recorder when the Recorder is disposing of a case transferred to his Court under section 15 or section 58, unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially. Licensing of advocates by Judicial Commissioner.

(*2*) The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules[3] for the qualification and admission of proper persons to appear, plead or act as advocates in such Courts, and for the suspension or dismissal of any such advocates who are guilty of fraudulent or grossly improper conduct.

Provisos.

76. The two last foregoing sections and any rules thereunder shall be subject to the following provisos, namely:— Provisos to the two last foregoing sections.

(*a*) any person having general or special authority from the Local Government may, without any license from the Recorder or the Judi-

[1] For instance of such rules, *see* Burma Gazette, November, 1894, Pt. IV, p. 986.

[2] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

[3] For instances of such rules, *see* notifications noted on p. 288 of the Burma Laws List, Ed 1897.

cial Commissioner, appear, plead or act for the Secretary of State for India in Council;

(*b*) a party may, without any such license, appear, plead or act on behalf of himself or a co-party.

(*c*) a person who for the time being is an advocate, vakil or attorney-at-law of any High Courts of Judicature in India may, without any such license, appear, plead or act as an advocate; and

(*d*) nothing in the sections or the rules shall be deemed to affect section 340 of the Code of Criminal Procedure, 1882.[1] X of 1882.

In the Special Court.

Advocates in Special Court.

77. Any person for the time being authorized by or under the foregoing provisions of this Chapter to appear, plead or act in the Court of the Recorder or in the Court of the Judicial Commissioner may also appear, plead or act, as the case may be, in the Special Court.

Discipline and Fees.

Penalty for acting as an advocate without authority.

78. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this Chapter or the rules thereunder shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

Taxation of fees of advocates.

79. The fees to be received by any advocate for business done in any Court under this Act shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

Rules as to fees of advocates.

80. (*1*) The Judicial Commissioner may from time to time make rules[2] regulating the fees payable to advocates in his own Court and in Courts subordinate to him; and

(*2*) The Recorder may from time to time make rules[3] regulating the fees payable to advocates in his own Court and in the Court of Small Causes of Rangoon; and

(*3*) The Judicial Commissioner and the Recorder may from time to time make rules[4] regulating the fees payable to advocates in the Special Court.

Touting.

Penalty for receiving or giving commission.

81. (*1*) Whoever commits any of the following offences:—

(*a*) solicits or receives from any legal practitioner any gratification in

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898). Printed, General Acts, Vol. VI, p. 380.

[2] For instance of such rules, *see* Burma Gazette, 1874, Pt. III, p. 33.

[3] For instance of rules under this sub-section, *see* Burma Gazette, 1890, Pt. IV, p. 400.

[4] For instance of rules under sub-section 3, *see* Burma Gazette, 1876, Suppt., p. 337.

consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered or agreed to be paid or delivered to any legal practitioner for such employment;

(*c*) being a legal practitioner, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) The expression "legal practitioner" in sub-section (*1*) means any person licensed as an advocate under section 73 or section 75, or appearing, pleading or acting as an advocate under section 76, clause (*c*), without a license.

CHAPTER VII.

SUPPLEMENTAL PROVISIONS.

Court of Small Causes of Rangoon.

Court of Small Causes of Rangoon.

82. (*1*) The Governor General in Council shall be deemed to have had authority under section 15 of Act XI of 1865[1] from time to time to invest any person for an unlimited time with the powers of a Judge of the Court of Small Causes of Rangoon.

(*2*) The persons who have since the thirtieth day of June, 1887, held, or are at the commencement of this Act or may be thereafter holding, office by the names of First Judge and Second Judge of the Court of Small Causes of Rangoon shall be deemed to have been appointed to the offices of Judge and Additional Judge, respectively, under section 6, sub-section (*1*), and section 8, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887.[2]

IX of 1887.

(*3*) Notwithstanding anything in section 8, sub-section (*2*), of that Act, the Local Government may make rules restricting, in such manner as it thinks fit, the functions which the Judge of the Court of Small Causes of Rangoon may assign to the Additional Judge of that Court, and any rules or instructions made or issued before the commencement of this Act for defining the respective functions of the Judges of that Court shall be deemed to have been lawfully made or issued, and shall, until they are varied by the Local Government, be deemed after the commencement of this Act to be rules under this sub-section.

[1] Rep. by Act IX of 1887.
[2] Printed, General Acts, Vol. V, p. 128.

(*4*) Notwithstanding anything in the Code of Civil Procedure,[1] all or any proceedings, written or oral, before the Additional Judge of the Court of Small Causes of Rangoon shall be in such language as the Local Government may prescribe. XIV of 1882.

Enhancement of powers of Judge of Court of Small Causes of Rangoon.

83.[2] (*1*) The Local Government may, by order notified in the Burma Gazette, direct that such suits of a civil nature as are not excepted from the cognizance of a Court of Small Causes by section 15, sub-section (*1*), of the Provincial Small Cause Courts Act, 1887,[3] and are of value exceeding one thousand and not exceeding two thousand rupees, shall be cognizable by the Judge of the Court of Small Causes of Rangoon as if they were suits cognizable by him under the said Act, and thereupon so much of that Act as relates to— IX of 1887.

(*a*) the exclusion of the jurisdiction of any other Court in such suits,

(*b*) the practice and procedure of Courts of Small Causes,

(*c*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*d*) the finality of their decrees and orders subject to such appeal and revision as are provided by the said Act,

shall apply to such suits and to the trial thereof and the decrees and orders therein.

(*2*) The Local Government may, by order notified as aforesaid, cancel any order made under sub-section (*1*), but not so as to affect any proceedings pending at the date of the cancelling order

Court-fees on applications to Recorder for exercise of revisional jurisdiction over Court of Small Causes of Rangoon.

84. In the first schedule to the Court-fees Act, 1870,[4] after No. 13, the following shall be inserted, namely :— VII of 1870.

Number.		Proper fee.
"14. Application to the Court of the Recorder of Rangoon for the exercise of the revisional jurisdiction of a High Court over the Court of Small Causes of Rangoon under section 622 of the Code of Civil Procedure[1] or section 25 of the Provincial Small Cause Courts Act, 1887.[3]	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupees.
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.

XIV of 1882.
IX of 1887.

[1] Printed, General Acts, Vol. IV, p. 262.
[2] For order under s. 83, *see* notification noted at the foot of p. 208 of the Burma Rules Manual, Ed. 1897.
[3] Printed, General Acts, Vol. V, p. 128.
[4] Printed, General Acts, Vol. II, p. 124.

XIV of 1882. IX of 1887. VII of 1870.

85. If the Recorder, on an application under section 622 of the Code of Civil Procedure[1] or section 25 of the Provincial Small Cause Courts Act, 1887,[2] on which a fee has been paid under the Court-fees Act, 1870,[3] as amended by the last foregoing section, sets aside or modifies the decree or order of the Court of Small Causes, or remands the case for a fresh decision, he may grant to the applicant a certificate authorizing him to receive back from the Collector the full amount of fee paid on the application, or any smaller amount which, with regard to the circumstances of the case, he may think proper to order to be refunded.

Refund of fees paid on applications to Recorder for revision.

Court of the Judge of the Town of Maulmain.

86. (*1*) The Local Government may, by notification[4] in the Burma Gazette, confer, within the local limits of the civil jurisdiction of the Court of the Judge of the Town of Maulmain,—

Conferment of subsidiary jurisdiction in Small Causes in Maulmain.

(*a*) upon any Extra Assistant Commissioner or Assistant Commissioner at Maulmain the jurisdiction of an Additional Judge of a Court of Small Causes, and

(*b*) upon the chief ministerial officer of the Court of the Judge of the Town of Maulmain all or any of the powers conferred or conferrable by or under the Provincial Small Cause Courts Act, 1887,[2] upon the Registrar of a Court of Small Causes.

IX of 1887.

(*2*) For purposes connected with the exercise of jurisdiction and powers so conferred, the provisions of the Provincial Small Cause Courts Act, 1887,[2] shall, so far as they can be made applicable, apply as if the Court of the Judge of the Town of Maulmain were a Court of Small Causes, and the Judge of that Town and the Extra Assistant Commissioner or Assistant Commissioner were respectively the Judge and the Additional Judge of the Court, and the chief ministerial officer were the Registrar thereof.

(*3*) The Local Government may withdraw any jurisdiction or powers conferred under this section.

VIII of 1890.

[5][**87.** For the purposes of section 47 of the Guardians and Wards Act, 1890, the Special Court constituted under Chapter V of this Act shall be deemed to be the High Court in respect of appeals from orders made by the Judge of the Town of Maulmain.]

Appeals from orders under the Guardians and Wards Act, 1890.

[1] Printed, General Acts, Vol. IV, p. 262.

[2] Printed, General Acts, Vol. V, p. 128.

[3] Printed, General Acts, Vol. II, p. 124.

[4] For instance of powers conferred, *see* notification noted on p. 209 of the Burma Rules Manual, Ed. 1897.

[5] Section 87 was substituted for the original section by the Repealing and Amending Act, 1891 (XII of 1891). Printed, General Acts, Vol. VI, p. 82.

Powers, Holidays and other Matters.

Powers with respect to ministerial officers of Courts.

88. (*1*) The Local Government shall have a power of general control over all appointments and punishments of ministerial officers of Courts under this Act.

(*2*) Any fine imposed on a ministerial officer of such a Court may, unless the order imposing it otherwise directs, be recovered by deduction from such officer's salary.

Power of Local Government to make rules as to process-serving establishments.

89. The Local Government may, with the previous sanction of the Governor General in Council, make rules[1] with respect to the establishments to be maintained for the service and execution of processes issued by Civil and Criminal Courts and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870,[2] or under this Act. VII of 1870.

Mode of appointment and conferring powers.

90. The Local Government may, when it is empowered by this Act to make any appointment or confer any powers, appoint, or confer the powers on, any person either specially by name or generally by virtue of his office.

Powers to make rules as to fees and other matters in Courts of Judicial Commissioner and Recorder and in Special Court.

91. (*1*) The Judicial Commissioner, so far as regards his own Court and the Courts subordinate thereto, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules as to the fees to be charged in respect of any of the following matters, namely :—

(*a*) the making of copies and translations ;

(*b*) the inspection of records, books and registers ; and

(*c*) any other matter in respect of which fees are for the time being chargeable under the authority of the High Court in any part of the Bengal Division of the Presidency of Fort William.

(*2*) The Recorder may, and on the request of the Local Government shall with the previous sanction of that Government, make rules,—

(*a*) so far as regards his own Court and any Court with respect to which the Court of the Recorder is under section 44 or section 48 to be deemed to be a High Court, as to any of the following matters, namely :—

(i) the regulation of practice and procedure ;

(ii) the service and execution of processes, and the fees to be charged therefor ;

(iii) subject to the provisions of section 554 of the Code of

[1] For rules and orders under this section, *see* pp. 209 to 215 of the Burma Rules Manual, Ed. 1897.

[2] Printed, General Acts, Vol. II, p. 124.

X of 1882. Criminal Procedure, 1882,[1] and section 644 of the Code of
XIV of 1882. Civil Procedure,[2] the forms to be used for any proceedings ; and

(iv) any matter specified or referred to in clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*) ; and

(*b*) so far as regards his own Court and the Court of the Judge of the Town of Maulmain, as Courts for the Relief of Insolvent Debtors under this Act, as to the remuneration to be allowed to the official assignees and to the other officers of those Courts.

(*3*) The Judicial Commissioner and the Recorder, so far as regards the Special Court, may, and on the request of the Local Government shall, with the previous sanction of that Government, make rules [3] as to any of the following matters, namely :—

(*a*) the regulation of the times and places for the sitting of the Court ;

(*b*) the distribution of business among the Judges thereof ; and

(*c*) any matters specified or referred to in clause (*a*) of sub-section (*2*).

Power to make rules as to judgments, evidence and affidavits in Courts of Judicial Commissioner and Recorder and in Special Court.

92. (*1*) The Judicial Commissioner and the Recorder for their respective Courts, and the Judicial Commissioner and the Recorder for the Special Court, may also make rules[4] to provide for—

(*a*) the recording of judgments, orders and sentences ;

(*b*) the taking down of the evidence of witnesses ; and

(*c*) the admission of affidavits as evidence of the matters to which such affidavits relate : and

(*2*) The Local Government, on being satisfied that such rules provide sufficiently for the matters to which they respectively refer, may exempt the Judicial Commissioner, the Recorder or the Special Court, as the case may be,
X of 1882. from the operation of such parts of the Code of Criminal Procedure, 1882,[1] and
XIV of 1882. the Code of Civil Procedure,[2] as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, and may permit the admission of affidavits as evidence of the matters aforesaid.

Differences of opinion between Judicial Commissioner and

93. If the Judicial Commissioner and the Recorder differ in opinion as to the appointment, suspension or dismissal of a ministerial officer of the Special

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

[2] Printed, General Acts, Vol. IV, p. 262.

[3] For rules of the Special Court, *see* the notifications noted on p. 292 of the Burma Laws List, Ed. 1897.

[4] For rules for the recording of judgments in the Special Court, *see* Burma Gazette, 1876, Suppt., p. 336; and for rules for the recording of judgments, orders and sentences of the Recorder's Court, *see ibid*, 1890, Pt. IV, p. 593.

Recorder as administrative representatives of Special Court

Court under section 63, sub-section (*3*), or as to any rule for the Special Court under section 91, sub-section (*3*), or section 92, the difference shall be referred to the Local Government, and the order of that Government thereon shall be final.

Holidays.

94. (*1*) The Judicial Commissioner and the Recorder, respectively, with the approval of the Local Government, shall publish in the Burma Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in their own Courts and the Courts respectively subject to their authority.

(*2*) A judicial act done by a Court on a day specified in the list as a day to be observed by the Court as a holiday shall not be invalid by reason only of its having been done on that day.

Continuance of proceedings of abolished Courts.

95. (*1*) Where a Court has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or section 649 of the Code of Civil Procedure [1] or in any other enactment for the time being in force. XIV 1882

Publication of rules in Burma Gazette.

96. No rule made under this Act shall take effect until it has been published in the Burma Gazette.

Laws.

Modification of certain enactments.

97. In the enactments [2] mentioned in the second schedule, for the words specified in the third column of that schedule, there shall be substituted the words specified in the fourth column thereof.

Amendment of sections 7 and 8, Act XV of 1869.

98. (*1*) For the last paragraph of section 7 of the Prisoners' Testimony Act, 1869,[3] the following shall be substituted, namely :— XV of 1869.

"For the purposes of this Act, every jail in Lower Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner, and the Recorder of Rangoon may issue orders under this section or section 3 or 4, and may also issue commissions under Part III of this Act, in any jail in Lower Burma."

(*2*) For the second paragraph of section 8 of the same Act the following shall be substituted, namely :—

"To obtain the removal of a person confined in a jail situate beyond the

[1] Printed, General Acts, Vol. IV, p. 262.
[2] So far as s. 97 relates to the Arakan Hill District Laws Regulation, 1874 (IX of 1874), it is repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule. *Infra*, p. 286.
[3] Printed, General Acts, Vol. II, p. 103.

limits of Lower Burma for the purpose of giving evidence in any criminal matter in any Court within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, the Recorder shall have the power conferred on a Judge of a High Court by the former part of this section, and the other provisions of such part shall, *mutatis mutandis*, apply."

99. [*Saving of Act XL of 1858 and Bengal Regulations V of 1799 and II of 1818.*] *Repealed by the Burma Laws Act, 1898 (XIII of 1898), s. 18, and Fifth Schedule.*

100. [*Certain references to Act VII of 1874 to be read as references to Act XVII of 1884.*] *Repealed by the Burma Laws Act, 1898 (XIII of 1898), s. 18, and Fifth Schedule.*

101. [*Conferment of magisterial powers upon police-officers in Salween and Arakan Hill Districts.*] *Repealed by the Burma Laws Act, 1898 (XIII of 1898), s. 18, and Fifth Schedule.*

102. [*Correction of schedule to Regulation IX of 1874.*] *Repealed by the Burma Laws Act, 1898 (XIII of 1898), s. 18, and Fifth Schedule.*

103. Save as expressly provided by this Act, nothing therein shall be construed to affect any Regulation in force at the commencement of this Act in the Hill District of Arakan under the Statute 33 Victoria, Chapter 3,[1] section 1.

Saving of Regulations in force in the Hill District of Arakan.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Title.	Extent of repeal.
1	2	3
	Acts of the Governor General in Council.	
XVI of 1872	Burma Spirit Duty Act, 1872.	The whole, in so far as it may not already have been repealed.
VII of 1874.	British Burma Municipal Act, 1874.	The whole.
XVII of 1875	Burma Courts Act, 1875	So much as has not been repealed.
[2]XIII of 1877	Burma Embankments Act, 1877.	The portion of s. 8, beginning with the words "and nothing" and ending with the words "of this Act."

[1] The Government of India Act, 1870, printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 878.

[2] Printed, *supra*, p. 31.

THE FIRST SCHEDULE—*continued.*

Number and year.	Title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
XI of 1880 . .	Burma Courts Act, 1880 .	The whole.
X of 1884 . .	Burma Courts Act, 1884 .	The whole.
XIV of 1885 .	Burma Courts Act, 1885 .	The whole.
XVI of 1886 .	Lower Burma Gaols Delivery Act, 1886.	The whole.
[1] * * * *	* * * *	* * * *
Regulations under the Statute 33 Victoria, Chapter 3,[2] Section 1.		
[3] IX of 1874 .	Arakan Hill District Laws Regulation, 1874.	The first and second paragraphs of section 4, the whole of sections 6 to 9 (both inclusive) and so much of the schedule as relates to Acts III of 1846 (*Boundary-marks*), XXXIII of 1852 (*Enforcement of Judgments*), XV of 1859 (*Patents*), VIII of 1860 (*Electric Telegraphs*), XXVII of 1860 (*Collection of Debts on Successions*), III of 1871 (*Paper Currency*), IX of 1871 (Limitation), XI of 1872 (*Foreign Jurisdiction and Extradition*), and VII of 1874 (*British Burma Municipal Act*).
[4] * * * *	* * * *	* * * *

[1] The entry relating to the Upper Burma Laws Act, 1886 (XX of 1886), was repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* s. 18 and the Fifth Schedule, printed, *infra*, p. 286.

[2] The Government of India Act, 1870, printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 878.

[3] Printed, *infra*, p. 307.

[4] The entry relating to the Upper Burma Criminal Justice Regulation, 1886 (VII of 1886), was repealed by the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. VI, p. 53.

THE SECOND SCHEDULE.

ENACTMENTS MODIFIED.

(*See section 97.*)

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4
Acts of the Governor General in Council.			
[1] IV of 1869.	Indian Divorce Act.	In section 3, clause (*1*), the words "in British Burma—the High Court of Judicature at Fort William in Bengal".	The words— "in Burma—the Special Court constituted under the Lower Burma Courts Act, 1889;".
		In section 3, clause (*2*), the words— "in the Non-Regulation Provinces, other than British Burma and Sindh—a Commissioner of a division; in Pegu—the Recorder at Rangoon; in Arakan—the Recorder at Rangoon until a Recorder's Court is established at Akyab, and thenceforward the Recorder at Akyab; in the Tenasserim Provinces—the Recorder at Maulmain; in Sindh—the Judicial Commissioner in that Province".	The words— "in the Non-Regulation Provinces, other than Sindh and the areas for the time being comprised within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon and of the civil jurisdiction of the Court of the Judge of the Town of Maulmain—a Commissioner of a division; in Sindh—the Judicial Commissioner of that Province; in the areas aforesaid—the Recorder of Rangoon and the Judge of the Town of Maulmain, respectively;".
[2] * * *	* *	* * * *	* * * *

[1] Printed, General Acts, Vol. II, p. 4.

[2] The entry relating to the Code of Criminal Procedure, 1882 (Act X of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

THE SECOND SCHEDULE—*continued.*

Number and year.	Title.	Words to be replaced.	Words to be substituted for those replaced.
1	2	3	4

Regulations under the Statute 33 Victoria, Chapter 3,[1] *Section 1.*

2 *	*	*	*	*	*	*	*	*	*

THE THIRD SCHEDULE.

(ENACTMENTS TO BE ADDED TO SCHEDULE TO REGULATION IX OF 1874.)

[*Rep. by the Burma Laws Act, 1898 (XIII of 1898).*]

ACT No. V OF 1890.[3]

(APPLIES TO LOWER BURMA ONLY.)

[*28th February, 1890.*]

An Act to amend *the Indian Forest Act, 1878, and* the Burma Forest Act, 1881.[4]

VII of 1878.
XIX of 1881.

WHEREAS it is expedient to amend the Indian Forest Act, 1878, and the Burma Forest Act, 1881; It is hereby enacted as follows:— VII of 1878. XIX of 1881.

Title and commencement.

1. (*1*) This Act may be called the Forest Act, 1890; and

(*2*) It shall come into force at once.

2-14. [*These sections amend the Indian Forest Act, 1878 (VII of 1878). They are reprinted in the General Acts, Vol. V, Ed. 1898, p. 372.*]

[1] The Government of India Act, 1870, printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 878.

[2] The entries relating to Regulations IX of 1874 and VII of 1886 were repealed, respectively, by the Burma Laws Act, 1898 (XIII of 1898), printed, *infra*, p. 260, and the Repealing and Amending Act, 1891 (XII of 1891), printed, General Acts, Vol. VI, p. 54.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1889, Pt. V, p. 201; for Report of the Select Committee, *see ibid*, 1890, Pt. V, p. 59; and for Proceedings in Council, *see ibid*, 1889, Pt. VI, pp. 150 and 154, *ibid*, 1890, Pt. VI, pp. 16 & 25.

[4] Printed, *supra*, p. 103.

Burma Forest Act, 1881.

XIX of 1881.

15. (*1*). For the definition of "tree" in section 3 of the Burma Forest Act, 1881, the following shall be substituted, namely :— Amendment of section 3, Act XIX, 1881.

[*Vide supra*, p. 104]

(*2*) For the definition of "forest-produce" in the same section the following shall be substituted, namely :—

[*Vide supra*, p. 104.]

16. For clause (*b*) of section 26 of the said Act the following shall be substituted, namely :— Amendment of section 26, Act XIX, 1881.

[*Vide supra*, p. 111]

17. (*1*) In the heading of Chapter V of the said Act, for the words "OF THE DUTY ON TIMBER", the words "OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE", and in the heading of Chapter VI of the said Act, for the words "OF THE CONTROL OF TIMBER IN TRANSIT" the words "OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT" shall be substituted. Amendment of Chapters V and VI, Act XIX, 1881.

(*2*) In sections 39, 41 and 42, after the word "timber", wherever it occurs, the words "or other forest-produce" shall be inserted.

(*3*) Throughout section 43, after the word "timber", except in the first paragraph, where the word first occurs, and in clauses (*c*), (*i*), (*l*) and (*m*), the words "or other forest-produce" shall be inserted.

(*4*) To section 43 of the said Act the following shall be added, namely :—

[*Vide supra*, p. 118.]

18. In section 48 of the said Act, the words "within three months" shall be substituted for the words "within two months". Amendment of section 48, Act XIX, 1881.

19. In section 63 of the said Act, after the words "before the Magistrate having jurisdiction in the case", the words "or to the officer in charge of the nearest police-station" shall be added. Amendment of section 63, Act XIX, 1881.

20. For section 66 of the said Act, the following shall be substituted, namely :— Amendment of section 66, Act XIX, 1881.

[*Vide supra*, p. 123.]

21. [*Repeal of s. 70 (k), Act XIX, 1881.*] [*Rep. by the Repealing and Amending Act, 1891* [1] (*XII of 1891*).]

22. After section 80 of the said Act the following section shall be added, namely :— Addition of new section after section 80, Act XIX, 1881.

[*Vide supra*, p. 128.]

[1] Printed, General Acts, Vol. VI, p. 32.

ACT No. III OF 1892.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*11th March, 1892.*]

An Act to amend the Rangoon Port Commissioners Act, 1879.[2]

XV of 1879.

WHEREAS it is expedient to amend the Rangoon Port Commissioners Act, 1879; It is hereby enacted as follows:— XV of 1879.

Substitution of new section for section 5, Act XV, 1879.

1. For section 5 of the said Act the following section shall be substituted:—

[*Vide supra*, p. 17.]

Additions to section 60, Act XV, 1879.

2. (*1*) To section 60, clause (*d*), of the said Act, the following proviso shall be added, namely:—

[*Vide supra*, p. 62.]

(*2*) To section 60, clause (*e*), of the said Act, the following proviso shall be added, namely:—

[*Vide supra*, p. 62.]

(*3*) To section 60, after clause (*f*), of the said Act, the following clause shall be added, namely:—

[*Vide supra*, p. 62.]

Addition to section 63, Act XV, 1879.

3. To section 63 of the said Act, the following words shall be added, namely:—

[*Vide supra*, p. 63.]

Substitution of new section for section 71, Act XV, 1879.

4. For section 71 of the said Act, the following shall be substituted, namely:—

[*Vide supra*, p. 65.]

ACT No. IX OF 1892.[3]

(APPLIES TO LOWER BURMA ONLY.)

[*25th October, 1892.*]

An Act to further provide for the Administration of Towns in Lower Burma.

WHEREAS it is expedient to further provide for the administration of towns in Lower Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Lower Burma Towns Act, 1892.

[1] Short Title "The Rangoon Port Commissioners Act (1879) Amendment Act, 1892," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule. *Infra*, p. 285.

For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 3; for Report of the Select Committee, *see ibid*, Pt. IV, p. 7; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 7, 14 & 24.

[2] Printed, *supra*, p. 45.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1892, Pt. V, p. 56; for Report of the Select Committee, *see ibid*, p. 73; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 19, 68 and 75.

(*2*) It extends to the whole of Lower Burma; and

(*3*) It shall come into force on such day[1] as the Local Government may, by notification in the Burma Gazette, appoint in this behalf.

Definition.

2. In this Act "town" means an area declared by the Local Government, by notification[2] in the Burma Gazette, to be a town for the purposes of the Act:

Provided that no such declaration shall be made with respect to any military cantonment, or part of a military cantonment, without the previous consent of the Governor General in Council.

Wards and blocks and headmen and elders.

3. (*1*) The Deputy Commissioner may, by order in writing, divide any town into wards and any ward into blocks.

(*2*) The Deputy Commissioner may, by a like order, appoint any person, with the consent of such person, to be the headman of a ward or the elder of a block.

(*3*) The Deputy Commissioner may, by a like order, for reasons to be stated therein, suspend or dismiss the headman of a ward or the elder of a block.

Report of certain matters by headmen and elders.

4. (*1*) Every headman of a ward shall communicate forthwith to the officer in charge of the nearest police-station or the nearest Magistrate any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his ward;

(*b*) the resort to any place within, or the passage through, his ward of any person whom he may know or reasonably suspect to be a dacoit, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or attempt or intention to commit, within his ward, any of the following offences, namely:—

(i) murder;

(ii) culpable homicide not amounting to murder;

(iii) dacoity;

(iv) robbery;

XI of 1878.

(v) offences against the Indian Arms Act, 1878[3]; and

(vi) any other offence respecting which the Deputy Commissioner, by general or special order, with the previous sanction of the

[1] Act IX of 1892 came into force on the 1st June, 1893, *see* Burma Gazette, 1893, Pt. I, p. 254.

[2] For notification declaring that all Municipal Towns shall be towns for the purposes of the Act, *see* Burma Rules Manual, Ed. 1892, p. 216. *See* also notifications noted on p. 310 of the Burma Laws List, Ed. 1897.

[3] Printed, General Acts, Vol. III, p. 243.

Local Government, may direct him to communicate information;

(*d*) the occurrence in his ward of any sudden or unnatural death, or of death under suspicious circumstances.

(*2*) Every elder of a block shall communicate forthwith to the headman of his ward any information which he may obtain respecting any of the matters specified in sub-section (*1*) which may exist or occur in his block, and, in the absence of the headman of his ward, he shall communicate the information forthwith to the officer in charge of the nearest police-station.

General duties of headman and elders.

5. (*1*) The headman of a ward shall be bound—

(*a*) to assist the police in the investigation of every offence respecting which he is required by the last foregoing section to communicate information;

(*b*) to search for and use his utmost endeavours to arrest any person whom he may have reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person;

(*c*) to arrest any person found lurking within the limits of the ward who cannot give a satisfactory account of himself;

(*d*) to forward, as soon as may be, to the nearest police-station, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence;

(*e*) to prevent to the best of his ability the commission of any offence regarding which he is required by section 4, sub-section (*1*), to communicate information, and to arrest the person designing to commit such offence if it appears to him that the commission of such offence cannot otherwise be prevented;

(*f*) to collect or aid in collecting, to the utmost of his ability, any revenue or other money due to the Government or to a municipal committee from residents of the ward or persons holding land therein;

(*g*) to report to such officer as may be appointed by the Deputy Commissioner in this behalf all trespass or encroachments upon, and injuries to, State land and public property which may occur within his ward, and of which he may reasonably and fairly be expected to have cognizance;

(*h*) if so ordered by the Deputy Commissioner, in accordance with such

rules as may be made in this behalf by the Commissioner [1] with the previous sanction of the Local Government, to register all births and deaths which take place within the ward, and any other vital statistics which may be prescribed by such rules;

(*i*) to take such measures for the prevention of fires and public nuisances and for the general sanitation of the ward as may be prescribed by any rules made in this behalf by the Commissioner [1] with the previous sanction of the Local Government;

(*j*) to report all cases of small-pox, cholera and cattle-disease which occur within his ward and of which he may reasonably and fairly be expected to have cognizance, and to supply, to the best of his ability, any local information which any Magistrate, officer of police or municipal officer may require; and

(*k*) generally to assist all officers of the Government and municipal officers in the execution of their public duties.

(*2*) The elder of a block shall be bound to assist the headman of his ward in the performance of the duties prescribed in sub-section (*1*):

Provided that in making a declaration under section 2 with respect to any town the Local Government may direct that any of the foregoing clauses shall not apply to that town.

Penalty for neglect of duty by headman or elder.

6. If any headman of a ward or elder of a block neglects, without reasonable excuse, to perform any of the duties imposed upon him by this Act or any rule made thereunder, he shall be liable [2] [on conviction by a Magistrate] to a fine which may extend to fifty rupees.

Obligation on residents of ward to aid headman.

7. (*1*) Every person residing in a ward shall, on the requisition of the headman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with any lawful requisition of the headman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable [2] [on conviction by a Magistrate] to a fine which may extend to fifty rupees.

Penalty for holding, promoting or taking part in unlicensed *pwés*.

7A. [3] (*1*) Whoever holds a *pwé* in any town without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwé* held without such license, shall be punished, on conviction by a Magistrate, with

[1] For rules made under these clauses, *see* Burma Laws List, Ed. 1897, p. 310.

[2] These words were inserted by the Lower Burma Villages and Towns Law Amendment Act, 1895 (XVIII of 1895), printed, *infra*, p. 238.

[3] S. 7A was inserted by the Lower Burma Villages and Towns Law Amendment Act 1895 (XVIII of 1895), printed, *infra*, p. 238.

imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).

Finality of orders.

8. (*1*) No appeal shall lie from any order made under this Act or any rule made thereunder.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, every order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

Power to make rules.

9. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with the foregoing sections for carrying into effect the purposes of this Act.

(*2*) All such rules shall be published in the Burma Gazette, and shall thereupon have the force of law.

ACT No. XI OF 1894.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*4th October, 1894.*]

An Act to amend the Lower Burma Village Act, 1889.[2]

III of 1889.

WHEREAS it is expedient to amend the Lower Burma Village Act, 1889; III of 1889.

It is hereby enacted as follows:—

Substitution of new clause for clause (*l*), section 6, Act III, 1889.

For clause (*l*) of section 6 of the said Act the following shall be substituted, namely:—

[*Vide supra*, p. 185.]

ACT No. II OF 1895.[3]

(APPLIES TO LOWER AND UPPER BURMA.)

[*31st January, 1895.*]

An Act to amend the Burma Boundaries Act, 1880.[4]

WHEREAS it is expedient to amend the Burma Boundaries Act, 1880,[4] V of 1880.

with a view to protect all permanent survey-marks erected or placed in the

[1] Short Title "The Lower Burma Village Act (1889) Amendment Act, 1894," *see* the Burma Laws Act (XIII of 1898), Fourth Schedule, printed, *infra*, p. 285.

For Statement of Objects and Reasons, *see* Gazette of India, 1894, Pt. V, p. 137; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 230 and 234.

[2] Printed, *supra*, p. 182.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 170; for Report of the Select Committee, *see ibid*, 1895, Pt. V, p. 9; and for Proceedings in Council, *see ibid*, 1894, Pt. VI, p. 243, and *ibid*, 1895, Pt. VI, pp. 34 and 110.

[4] Printed, *supra*, p. 77.

course of any survey executed by order of Government; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Burma Boundaries Act Amendment Act, 1895.

(*2*) It extends to the whole of Burma (inclusive of Upper Burma)

* * * [1] ; and

(*3*) It shall come into force at once.

Substitution of new preamble to Act V, 1880.

V of 1880.

2. For the preamble of the said Burma Boundaries Act, 1880,[2] the following shall be substituted, namely :—

[*Vide supra*, p. 77.]

Addition of section after section 1 of same Act.

3. The following section shall be added after section 1 of the said Act, namely :—

[*Vide supra*, p. 78.]

Repeal of section 27 of same Act.

4. Section 27 of the said Act shall be repealed.

Substitution of new sections for section 28 of same Act.

5. For section 28 of the said Act, the following sections shall be substituted, namely :—

[*Vide supra*, p. 83.]

Substitution of new section for section 30 of same Act.

6. For section 30 of the said Act, the following section shall be substituted, namely :—

[*Vide supra*, p. 84.]

ACT No. XI OF 1895.[3]

(APPLIES TO LOWER BURMA ONLY.)

[*7th March, 1895.*]

An Act to remove certain doubts as to the validity of certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma and to prevent their being raised in the future.

WHEREAS doubts exist as to the validity of certain proceedings and acts heretofore held or done by certain officers of the Pegu and Tenasserim Divisions, respectively, in Lower Burma, on the ground that such proceedings and acts were not held or done within the sessions division, district, sub-division,

[1] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

[2] Printed, *supra*, p. 77.

[3] Short Title "The Pegu and Tenasserim Validation Act, 1895," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *infra*, p. 286.

For Statement of Objects and Reasons, *see* Gazette of India, 1895, Pt. V, p. 27; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 129 and 231.

township, registration district or sub-district to which the officer holding the proceeding or doing the act was appointed;

And whereas it is expedient to remove such doubts and to prevent their being raised in the future;

It is hereby enacted as follows:—

Validating certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions of Lower Burma.

1. All proceedings and acts heretofore held or done, or which may hereafter be held or done,—

(*a*) by the Commissioner or Sessions Judge of the Pegu Division and by the Deputy Commissioner and other Magistrates or officers of the Hanthawaddy District within the precincts of their respective courts and offices in the Rangoon Town District, and

(*b*) by the Commissioner or Sessions Judge of the Tenasserim Division and by the Deputy Commissioner and other Magistrates or officers of the Amherst District within the precincts of their respective courts and offices in the Maulmain Town District and the Maulmain Town Sub-division of the Amherst District

shall be deemed to have been held or done within the sessions division, district, sub-division, township, registration district or sub-district to which the officer holding the proceeding or doing the act was or shall have been appointed, and the court or office in which a proceeding or act has been or shall be held or done by any such officer shall be deemed to have been or to be within the sessions division, district, sub-division, township, registration district or sub-district in which the officer exercised or shall exercise jurisdiction.

ACT No. XVIII OF 1895.[1]

(APPLIES TO LOWER BURMA ONLY.)

[*19th October, 1895.*]

An Act to amend the Lower Burma Village Act, 1889,[2] and the Lower Burma Towns Act, 1892.[3]

III of 1889. IX of 1892.

WHEREAS it is expedient to amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892; It is hereby enacted as follows:— III of 1889. IX of 1892.

Lower Burma Village Act, 1889.[2]

Amendment of section 6, Act III, 1889.

1. In section 6, sub-section (*1*) of the Lower Burma Village Act, 1889, for clause (*g*) the following shall be substituted, namely:—

[*Vide supra*, p. 184.]

[1] Short Title "The Lower Burma Villages and Towns Law Amendment Act, 1895," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *infra*, p. 285.

[2] Printed, *supra*, p. 182.

[3] Printed, *supra*, p. 232.

2. After section 13 of the said Act the following section shall be inserted, namely :— Insertion of new section after section 13, Act III, 1889.

[*Vide supra*, p. 188.]

3. In section 22, sub-section (*1*), clause (*a*), of the said Act, after the words " conferring on " the words " headmen or on " shall be inserted. Amendment of section 22, Act III, 1889.

IX of 1892. *Lower Burma Towns Act, 1892*[1].

4. In sections 6 and 7 of the Lower Burma, Towns Act, 1892, after the word " liable " in each section, the words " on conviction by a Magistrate " shall be inserted. Amendment of sections 6 and 7, Act IX, 1892.

5. After section 7 of the said Act the following section shall be inserted, namely :— Insertion of new section after section 7, Act IX, 1892.

[*Vide supra*, p. 235.]

THE EXCISE ACT, 1896.

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[1] Printed, *supra*, p. 232.

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ACT No. XII OF 1896.[1]

(APPLIES TO LOWER AND UPPER BURMA.)

[*19th March, 1896.*]

An Act to amend the law relating to the Excise-revenue in force, in Northern India, Burma and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India Burma and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, local extent and commencement.

1. (*1*) This Act may be called the Excise Act, 1896. XII of 1896.

(*2*) It extends to the territories administered respectively by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, the Lieutenant-Governor of the Punjab, and the Chief Commissioner[2] of the Central Provinces, Burma * * *[3] Coorg, and Ajmere and Merwara ; and

(*3*) It shall come into force at once.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. ; for Report of the Select Committee, *see ibid*, p. 173 ; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 16, 94 and 156.

The Act has been declared to be in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), *see* the First Schedule, printed, *infra* p. 266.

It has been declared, by notification under s. 10 of the same Act, to be in force in the Civil Station of Lashio in the State of North Hsenwi, *see* Burma Gazette, 1898, Pt. I, p. 584. *See* also notification No. 27, set out at p. 618 *infra*.

It was also declared in force in the Civil Station of Taungyi in the State of Yaunghwè, by notification under s. 8 (*1*) of the Upper Burma Laws Act, 1886 (XX of 1886), and s. 5 of the Shan States Act, 1888 (XV of 1888), *see* Burma Gazette, 1895, p. 551. This notification is kept in force by s. 24 of the General Clauses Act, 1897 (X of 1897), printed, General Acts, Vol. VI. *See* notification No. 43, set out at p. 616, *infra*.

[2] The Chief Commissioner of Burma is now Lieutenant-Governor of Burma, *see* Proclamation, dated the 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261.

[3] The words "inclusive of Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *infra*, p. 286.

Repeal.

2. (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

(*2*) But all rules made, powers conferred and licenses and forms granted under any of the enactments so repealed and in force at the commencement of this Act shall be deemed to have been respectively made, conferred and granted under this Act.

Definitions.

3. (*1*) In this Act —

(*a*) "Chief Revenue-authority" means,—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue:

in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner[1] of Burma,—the Financial Commissioner; and

in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwara,—the Chief Commissioner.

(*b*) "Collector" includes any Revenue-officer in independent charge of a district and any officer appointed by the Local Government[2] to discharge, throughout any specified local area, the functions of a Collector under this Act:

(*c*) "Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act:

(*d*) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district:[3]

(*e*) "import" includes removal into one Province of British India from another:

(*f*) "place" includes also house, boat and raft:

(*g*) "tárí" means the sap of any kind of palm-tree:

(*h*) "fermented liquor" means malt liquor, wine, pachwai and fermented tárí, and in any provision of this Act, shall, if the Local Government, subject to the control of the Governor General in Council, so directs,[4] include any

[1] *See* the second foot-note on the preceding page

[2] For notifications appointing officers to discharge the functions of a Collector in Burma, *see* those noted on p 320 of the Burma Laws List, Ed. 1897.

[3] In the Civil Station of Lashio in the State of North Hsenwi, and in the Civil Station of Taungyi in the State of Yaunghwè, the jurisdiction, powers and duties of a District Magistrate or a Sub-divisional Magistrate, being a Magistrate of the first class, are to be exercised by the Superintendent of the Northern Shan States and every Assistant Superintendent of the Shan States, respectively, *see* Notification No. 28, dated 14th December, 1898, and No. 44, dated 16th December, 1895, printed, *infra*, Pt. V, pp. 622 and 621.

[4] For notification declaring what the term "fermented liquor" includes, *see* Burma Gazette, 1895, Pt. I, p. 355.

other fermented liquor, and also tárí, though it may not have perceptibly begun to ferment :

(*i*) " spirit " means any liquor containing alcohol obtained by distillation :

(*j*) the expression " intoxicating drugs " means ganja, bhang, charas, and every preparation and admixture of the same :

(*k*) " hemp " means any variety of the hemp plant from which intoxicating drugs can be produced :

(*l*) " tola " means a weight of one hundred and eighty grains Troy :

(*m*) " ser " means a weight of eighty tolas :

(*n*) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles ;

country spirit, one ser, and in Burma one reputed quart bottle ;

country fermented liquor, four sers, and in Burma four reputed quart bottles ;

bhang, or any preparation or admixture thereof, one ser ;

ganja or charas, or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

(2) In any case in which doubt arises, the Local Government may decide what, for the purposes of this Act, shall be deemed to be " country spirit," " country fermented liquor," " foreign spirit," and " foreign fermented liquor " ; and such decision shall be binding on the Courts.[1]

Saving of Acts XVI of 1863 and XIII of 1889.

4. Nothing herein contained shall affect Act XVI of 1863 [2] (*to make special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*) or the Cantonments Act,[3] 1889. XIII of 1889.

CHAPTER II.

Production of Spirit and Fermented Liquor.

Manufacture of spirit and liquor with-

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted

[1] For notifications declaring what liquors shall be deemed to be "country spirits" and "foreign spirits," respectively, *see* Burma Gazette, 1895 and 1897, Pt. I, pp. 356 and 19, respectively.

[2] Printed, General Acts, Vol. I, p. 403.

[3] Printed, General Acts, Vol. V, p. 335.

by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein. out license prohibited.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time— Power to establish distilleries for country spirit.

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established; and

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until— Duty on spirit.

(*a*) such duty as the Local Government may from time to time fix[1] in respect of such spirit has been paid, or

(*b*) a bond for such duty has been executed, or

(*c*) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

Explanation.—Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption.

8. No fermented liquor shall be removed from a brewery licensed under section 5 until— Duty on fermented liquor.

(*a*) duty has been paid thereon at the rate for the time being leviable under the Indian Tariff Act, 1894,[2] on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or VIII of 1894.

(*b*) a bond for such duty has been executed.

9. The Chief Revenue-authority may, from time to time, make rules[3] as to— Power for Chief Revenue-authority to make rules as to

(*a*) the granting of licenses for distilleries, stills and breweries under section 5;

[1] For notification fixing duty on spirits intended to be used exclusively in arts, manufactures or in chemistry, when removed from a distillery, *see* Burma Gazette, 1886, Pt. I, p. 269.

For notification fixing the duty payable on spirits manufactured in distilleries licensed under s. 5, *see* Burma Gazette, 1893, Pt. I, p. 130.

[2] Printed, General Acts, Vol. VI, p. 123.

[3] For general rules made under this section, together with s. 65, *see* Burma Gazette, 1897, Pt. IV, p. 175.

distilleries and breweries licensed under section 5.

(*b*) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery ;

(*d*) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes ;

(*e*) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made ad stored therein ;

(*f*) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers, and collecting, fermenting and other vessels in such brewery.

Power for Chief Revenue-authority to make rules for distilleries established under section 6.

10. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the management of distilleries established under section 6, and, in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery ;

(*b*) the conditions on which spirit may be made in such distilleries ; and

(*c*) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under sections 9 and 10.

11. Except in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwara, the sanction of the Local Government is required to validate rules under sections 9 and 10.

CHAPTER III.

Cultivation and Control of Intoxicating Drugs.

Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.

12. (*1*) In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.

(*2*) In the other territories to which this Act extends, the Local Government, with the previous sanction of the Governor General in Council, may

from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

(*a*) prohibit, absolutely or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act ;

(*b*) restrict and regulate, in such manner as may by rule be prescribed the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected ; and

(*c*) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs ;

and may, in like manner, cancel or vary any such notification.

Duty on cultivation of hemp and intoxicating drugs.

13. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time by notification in the official Gazette, in respect of the whole or any part of the territories administered by it :—

(*a*) impose such duty, not exceeding two hundred rupees per acre, as it may think fit, on the cultivation of hemp ; or,

(*b*) impose such duty, not exceeding twenty rupees per ser, as it may think fit on intoxicating drugs produced or prepared in, or imported into, or exported from, or transported from place to place within any of the territories to which this Act extends, or any part thereof ;

and may, in like manner, alter or abolish any duty imposed under this section.

Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on

14. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time,—

(*a*) establish or license bonded or other warehouses for the storage of intoxicating drugs, and

(*b*) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13 on intoxicating drugs in transit to or from, or stored in, such

(*b*) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district;

(*c*) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules, from time to time, made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor;

(*d*) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector.

Licenses how granted and cancelled.

22. (*1*) Subject to the rules[1] made by the Chief Revenue-authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma) of intoxicating drugs, within his district or any part thereof or at any place therein.

(*2*) Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.[2]

(*3*) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Further power to cancel licenses.

23. (*1*) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall, in addition to remitting such sum as aforesaid, make such compensation for default

[1] For rules made under this section and section 65, *infra*, for Taungyi, *see* Burma Gazette, 1896, Pt. I, p. 264; for rules concerning the grant of licenses to sell spirit and fermented liquors and intoxicating drugs and as to things confiscated under the Act in the Station of Lashio in the Shan State of North Hsenwi, *see* Burma Gazette, 1899, Pt. I, p. 276.

[2] For notification appointing the Collector to perform this duty, *see* Burma Gazette, 1892, Pt. I, p. 371.

of notice as the Commissioner of Revenue or the Chief Revenue-authority directs.

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed.

Power for Collector to farm fees and for farmer to grant licenses

25. (1) The Collector, with the sanction of the Chief Revenue-authority, may let in farm—

(*a*) fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs ;

(*b*) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

Farm may be cancelled.

26. The Collector, with the sanction of the Chief Revenue-authority, may cancel any farm granted under the Act.

Compensation to farmers in certain cases.

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Recovery of

28. Every farmer under this Act may use the same means and processes

arrears by farmers.

for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power for Chief Revenue-authority to regulate supply of tárí to licensed vendors.

29. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tárí shall be supplied to licensed vendors of the same.

CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of spirit, etc.

30. (*1*) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, sub-section (*l*) clause (*a*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government[1] to grant such passes.

(*2*) Nothing in this section extends to—

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(*b*) tárí intended to be used for the manufacture of gúr or molasses.

Spirit and fermented liquor from foreign territory subject to duty.

31. A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India, beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,—

(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian

[1] For notification empowering Township officers to grant passes for the possession of country spirits etc., *see* Burma Gazette, 1886, Pt. I, p. 58.

VIII of 1894. Tariff Act, 1894,[1] or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (*a*) of section 8, may from time to time prescribe.

(*3*) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

Spirit and fermented liquor from territory beyond India, subjected to duty.

32. (*1*) The Governor General in Council may, from time to time by notification in the Gazette of India, impose such duty as he thinks fit on any spirit or fermented liquor brought by land from beyond the limits of India into any territory to which this Act extends or into any specified part thereof, and may alter or abolish any duty so imposed.

(*2*) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

Collectors may appoint Excise-officers.

33. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act, and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Recovery of arrears of fees.

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Powers of Excise-officer to inspect shop.

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit or the sale of country spirit, country fermented liquor or intoxicating drugs.

Power of Excise-officers to arrest persons carrying spirit, etc., liable to confiscation.

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found.

[1] Printed, General Acts, Vol. VI, p. 123.

Power of Excise-officers to arrest persons in possession of article liable to confiscation and to seize article.

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary, may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

Power of Excise-officer to search on information of illicit manufacture or possession.

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees, unless the Excise officer is himself such an officer of police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article, and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

40. (*1*) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

(*2*) Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(*3*) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of

searching for any such article, he shall, within twenty-four hours thereafter make a full report of all the particulars of such arrest, seizure or search to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication. arrest, etc., and to take person arrested to Magistrate.

42. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article. Procedure after arrest or seizure.

43. All Police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such Excise-officers. Police to aid Excise-officers.

44. (*1*) The Local Government may, from time to time, invest[1] either by name or in virtue of his office— Power for Local Government to invest Police-officers with powers of Excise-officers.

(*a*) any Police-officer with the powers conferred on Excise-officers by section 36 of this Act;

(*b*) any Police-officer in charge of a station or any Police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 37 and 38 of this Act.

(*2*) Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

45. (*1*) Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both. For illegally manufacturing spirit or liquor.

(*2*) All spirit and liquor made in contravention of section 5, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

46. (*1*) Any person who— For illegally introducing country spirit.

(*a*) without a special pass from the Collector introduces, into the limits fixed for the consumption of spirit made at a distillery established

[1] For powers conferred on Police Officers *see* Burma Laws List, Ed. 1897, p. 322.

under section 6, any country spirit manufactured at another place, or

For illegally removing spirit or fermented liquor.

(*b*) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or

For illegally importing spirit or fermented liquor.

(*c*) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or

For importing spirit, fermented liquor or intoxicating drug without paying duty.

(*d*) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(*2*) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For contravening rules prescribed by Chief Revenue-authority.

47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees.

For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting, or transporting intoxicating drugs.

48. (*1*) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13,—

(*a*) cultivates hemp, or

(*b*) collects the spontaneous growth of the hemp plant, or

(*c*) prepares any intoxicating drug, or

(*d*) possesses any intoxicating drug, or

(*e*) imports, exports or transports any intoxicating drug,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(*2*) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.

For illicitly selling spirit, etc.

49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For permitting drunkenness, etc., in shop.

50. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

For illegally possessing spirit or liquor.

51. Any person who possesses any spirit or liquor, in contravention of section 30, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusing to produce license and for breach of rules and conditions.

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule under this Act, or any condition of a license granted under this Act for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For conniving at illicit manufacture or sale of spirit, etc.

53. (*1*) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(*2*) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction, shall be punished with fine which may extend to five hundred rupees.

For police neglecting to aid Excise-officers.

54. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 43, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 38, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For vexatious search or seizure.

55. Any Excise-officer who,—

(*a*) without reasonable grounds of suspicion, searches or causes to be searched, any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

For delay in reporting arrest, etc., or in taking Person arrested to Magistrate.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except on the complaint or report of the Collector or an Excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement in what jail.

58. Every person imprisoned for an offence under section 17 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the Indian Penal Code,[1] the commission of any such offence shall be punished with the punishment provided for such offence. XLV of 1860.

Disposal of fines, etc., as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

Military Cantonments.

Manufacture and sale of spirits, etc.,

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no

[1] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled. in military cantonments.

63. In all other respects the provisions of this Act shall have effect within such limits or distance. Application of Act to military cantonments.

CHAPTER IX.

MISCELLANEOUS.

64. (*1*) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors. Collector subject to control of Commissioner.

(*2*) The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

65. The Chief Revenue-authority may, from time to time, make rules[1] consistent with this Act— Additional power for Chief Revenue-authority to make rules.

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

(*e*) as to the disposal of things confiscated under this Act;

(*f*) as to the duties of Excise-officers; and

(*g*) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time by notification in the official Gazette, exempt[2] within any specified local area any specified articles or Power for Local Government to

[1] For general rules under the Act, *see* Notification No. 8, Burma Gazette, 1897, Pt. IV, p. 175. *See* also note to s. 22, *supra*.

[2] For notifications under this section, *see* **Burma Laws List, Ed. 189 , pp. 322 and 324.**

exempt articles and persons.

any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption.

THE SCHEDULE.

(*See section 2.*)

Year.	No.	Title or subject.	Extent of repeal.
1881	XXII	The Excise Act, 1881 .	The whole.
1885	VI	Amending the Excise Act, 1881 .	Ditto.
„	IX	Amending the Excise Act, 1881, and other Acts.	So much as relates to the Excise Act, 1881.
1887	II	Ditto	Ditto.
1888	XVIII	Financial Commissioner, Burma .	So much of section 7 and the schedule as relates to the Excise Act, 1881.
1889	XIII	The Cantonments Act, 1889 . .	So much of section 2 and the schedule as relates to the Excise Act, 1881.
1890	XIII	Amending the Excise Act, 1881, and other Acts.	Sections 2 to 5 (both inclusive).
„	XX	The North-Western Provinces and Oudh Act, 1890.	Section 43.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to the Excise Act, 1881.
1893	X	Amending the Excise Act, 1881 .	The whole.

ACT No. XIII OF 1898.[1]

(APPLIES TO UPPER AND LOWER BURMA.)

[*4th November, 1898.*]

An Act to declare the Regulations of the Bengal Code and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma and other matters.

WHEREAS it is expedient to declare the regulations of the Bengal Code

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 309; for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 367 and 391.

and Acts of the Governor General in Council now in force in Upper Burma and to make certain provisions regarding the law in Burma;

And whereas it is also expedient to amend, repeal, and facilitate the citation of, various enactments in force in Burma;

It is hereby enacted as follows:—

Preliminary.

Short title, commencement and extent.

1. (*1*) This Act may be called the Burma Laws Act, 1898; and

(*2*) It shall come into force at once.

(*3*) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India.

Saving of special or local laws.

2. Save as otherwise in this Act expressly declared, nothing herein contained shall affect the provisions of the Arakan Hill District Laws Regulation, 1874,[1] the Kachin Hill Tribes Regulation, 1895,[2] the Chin Hills Regulation, 1896,[3] or any special or local law for the time being in force in Burma or any part thereof.

IX of 1874.
I of 1895.
V of 1896.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the word "Burma" means the territories for the time being administered by the Lieutenant-Governor of Burma;

(*b*) the word "chief," used with reference to a Shan State, includes a person temporarily administering such a State;

(*c*) the expression "Chin Hills" means the territories for the time being known as the Chin Hills;

(*d*) the expression "Lower Burma" means the territories for the time being included in Lower Burma;

(*e*) the expression "Shan States" means the territories for the time being included in the Shan States; and

(*f*) the expression "Upper Burma" means the territories for the time being included in Upper Burma, including also the Chin Hills.

Upper Burma.

Bengal Regulations and Acts of the Governor General in Council in force in Upper Burma.

4. (*1*) Subject to the provisions of this Act and of any other enactment for the time being in force, this Act and the enactments mentioned in the first schedule, to the extent specified in the fourth column thereof, shall be deemed to be in force in Upper Burma.

(*2*) A Regulation of the Bengal Code or an Act of the Governor General in Council passed before the commencement of this Act, but not mentioned

[1] Printed, *infra*, p. 307
[2] Printed, *infra*, p. 381.
[3] Printed, *infra*, p. 410.

in the first schedule, shall not be deemed to be in force in Upper Burma or in any part thereof, unless it is, after the commencement of this Act, extended [1]thereto in exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874,[2] or by any other enactment for the time being in force. XIV of 1874.

(*3*) The undermentioned enactments shall, in their application to Upper Burma, be deemed to be subject to the following modifications, that is to say :—

(*a*) in the Indian Tolls Act, 1851,[3] for the last sixteen words of section 4 the words "or of any person or property exempted by order of the Local Government from payment of tolls" shall be substituted; VIII of 1851.

(*b*) in the Whipping Act, 1864,[4] after section 5 the provisions set forth in the second schedule shall be added; VI of 1864.

(*c*) in the Indian Evidence Act, 1872,[5] after the expression "police-officer" in section 25 the words "who is not a Magistrate" shall be inserted. I of 1872.

(*4*) This section does not extend to the Shan States.

Division of Upper Burma into divisions, districts, subdivisions, townships and circles.

5. The Local Government may, for administrative, including revenue purposes,—

(*a*) with the previous sanction of the Governor General in Council, divide Upper Burma into divisions and each of those divisions into districts, and vary the limits of those divisions and districts, and

(*b*) of its own authority, divide each of those districts[6] into sub-divisions, each of those subdivisions into townships and each of those townships into circles, and vary the limits of these sub-divisions, townships and circles.

Construction of enactments in force in Upper Burma.

6. For the purpose of facilitating the application of any enactment for the time being in force in any part of Upper Burma, any Court may construe the enactment with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court.

Lower Burma.

Construction of references in certain

7. Where, in any enactment in force on the twenty-fourth day of September, 1886, in any part of Lower Burma and still in force, there occurs a

[1] The Caste Disabilities Removal Act, 1850 (XXI of 1850), has, since the commencement of Act XIII of 1898, been extended to Upper Burma, except the Shan States—*see* Burma Gazette, 1899, Pt. I, p. 89.

[2] Printed, General Acts, Vol. II, p. 453.

[3] Printed, General Acts, Vol. I, p. 79.

[4] Printed, General Acts, Vol. I, p. 429.

[5] Printed, General Acts, Vol. II, p. 222.

[6] For instance of such division of a district, *see* Burma Gazette, 1899, Pt. I, p. 364.

reference to the "British Burma Gazette," or a reference to "the territories administered by the Chief Commissioner of British Burma (or Burma)" or to "British Burma" or "Burma" (except where the expression "Burma" occurs in section 3 of the Petroleum Act, 1886),[1] such reference shall be construed as referring to the Burma Gazette or to Lower Burma, as the case may be.

existing enactments to British Burma and Burma.

XII of 1886.

8. The unrepealed portions of Regulation III of 1818[2] of the Bengal Code shall, *mutatis mutandis*, be deemed to extend, and on and from the sixteenth day of September, 1875, to have extended, to Lower Burma.

Extension of Bengal Regulation III, 1818, to Lower Burma.

9. In the tracts of country respectively known as the Salween District and the Hill District of Arakan, section 20 of the Police Act, 1861,[3] shall not apply to any police-officer appointed under section 4 of that Act, and, notwithstanding anything in the Code of Criminal Procedure, 1898,[4] the Local Government shall continue to have power to confer on any such police-officer in either of those tracts, either generally or in regard to particular cases or classes of cases all or any of the powers conferred or conferable by or under that Code on any Magistrate.

Conferment of magisterial and other powers upon police-officers in Salween and Arakan Hill Districts of Lower Burma.

V of 1861.

V of 1898.

The Shan States.

10. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, extend, with such restrictions and modifications as it thinks fit, to all or any of the Shan States, or to any specified local area in the Shan States, any enactment[5] which is in force in any part of Upper Burma at the date of the extension.

Law in the Shan States.

(*2*) Unless and until it is extended under sub-section (*1*), or unless it is expressed by special mention of the Shan States to extend thereto, an enactment shall not be in force in the Shan States or in any part thereof.

(*3*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, declare what territories constitute the Shan States for the purposes of this Act.

11. (*1*) Subject to the provisions of this Act and of any other enactment for the time being in force in a Shan State, and to such conditions as may have been, or may be, prescribed by the Local Government, with the approval of the Governor General in Council, in any instrument recognizing a person as the chief of the State, the administration of civil and criminal justice and the collection of the revenue within the State shall be vested in the person for the time being recognized by the Local Government as the chief of the State.

Administration of Shan States by their own chiefs and under their own laws.

[1] See now s. 2 (*a*), (*i*) of the Indian Petroleum Act, 1899 (VIII of 1899).

[2] Printed, *supra*, p. 1.

[3] Printed, General Acts, Vol. I, p. 379.

[4] Printed, General Acts, Vol. VI, p. 380.

[5] For enactments in force in the Shan States, *see* Pt. V, *infra*, p. 604.

(*2*) Subject as aforesaid, the law to be administered in a Shan State shall be the customary law of the State in so far as that law is in accordance with justice, equity and good conscience, and in so far as the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British India.

Participation of the Government in the administration of Shan States.

12. (*1*) The Local Government may, by order,—

(*a*) appoint officers to undertake, or to take part in, the administration of civil and criminal justice and the collection of the revenue within the Shan States ;

(*b*) with the previous sanction of the Governor General in Council, define the powers, and regulate the procedure, of officers so appointed and their deputies and subordinates, and of the chiefs and their deputies and subordinates ;

(*c*) with the previous sanction of the Governor General in Council, direct by what authority any jurisdiction, power or duty incident to the operation of any enactment for the time being in force in the Shan States is to be exercised or performed ;

(*d*) modify the customary law of the Shan States in so far as, in the opinion of the Local Government, that law is not in accordance with justice, equity and good conscience, or authorizes punishments, or permits practices, which are not in conformity with the spirit of the law in force in the rest of British India ; and

(*e*) modify the system of taxation in the Shan States and regulate the assessment and collection of the revenue therein.

(*2*) An order of the Local Government under sub-section (*1*) may have reference to any one Shan State or to any specified local area therein, or to any number of Shan States specified or referred to in the order.

General.

Law to be administered in certain cases.

13. (*1*) Where in any suit or other proceeding in Burma it is necessary for the Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

(*a*) the Buddhist law in cases where the parties are Buddhists,

(*b*) the Muhammadan law in cases where the parties are Muhammadans, and

(*c*) the Hindu law in the cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has by enactment

been altered or abolished, or is opposed to any custom having the force of law.

(*2*) Subject to the provisions of sub-section (*1*) and of any other enactment for the time being in force, all questions arising in civil cases instituted in the Courts of Rangoon shall be dealt with and determined according to the law for the time being administered by the High Court of Judicature at Fort William in Bengal in the exercise of its ordinary original civil jurisdiction.

(*3*) In cases not provided for by sub-section (*1*) or sub-section (*2*), or by any other enactment for the time being in force, the decision shall be according to justice, equity and good conscience.

(*4*) This section does not extend to the Shan States.

Transfers of territory between Upper and Lower Burma.

14. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, transfer any portion of Upper Burma to Lower Burma, or any portion of Lower Burma to Upper Burma, with effect from a date to be specified in the notification, and, on and with effect from that date, the portion so transferred shall form part of Lower Burma or Upper Burma, as the case may be.

(*2*) When any portion of Upper Burma (except the Shan States) is transferred to Lower Burma, the territory so transferred shall, unless the Governor General in Council otherwise directs, continue to be a Scheduled District.

(*3*) When any portion of Lower Burma is transferred to Upper Burma, the Governor General in Council may direct that the territory so transferred shall form part of the Scheduled District of Upper Burma.

Transfer to Lieutenant-Governor of powers and duties of Chief Commissioner.

15. All powers conferred or duties imposed upon the Chief Commissioner of British Burma or Burma by or under any enactment shall be deemed to be, and, on and with effect from the first day of May, 1897, to have been, conferred or imposed upon the Lieutenant-Governor of Burma; and, subject to the provisions of section 7, all references in any instrument to the said Chief Commissioner shall, on and with effect from that date, be construed as referring to the Lieutenant-Governor.

Amendment of certain enactments.

16. The enactments mentioned in the third schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

Citation of certain enactments.

17. The enactments mentioned in the fourth schedule may, without prejudice to any other mode of citation, be cited for all purposes by the appropriate short titles specified in the fourth column thereof.

Repeal of certain enactments.

18. (*1*) The enactments mentioned in the fifth schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) But the repeal by this Act of any enactment shall not affect any other enactment in which the enactment repealed has been applied, incorporated or referred to;

and nothing in this Act shall affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall anything in this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

[*See section 4, sub-section (1).*]

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA.[1]

[NOTE—The citation of an enactment includes all enactments passed before the commencement of this Act expressly amending the former enactment.]

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Regulation of the Bengal Code.	
[2]1818	III	The Bengal State Prisoners Regulation, 1818.	So much as is unrepealed.
		Acts of the Governor General in Council.	
[3]1843	V	The Indian Slavery Act, 1843.	So much as is unrepealed.

[1] The Caste Disabilities Removal Act, 1850 (XXI of 1850), has now been declared in force in Upper Burma by notification—*see* footnote to s. 4, and *supra*, p. 262.

[2] *Supra*, p. 1.

[3] Printed, General Acts, Vol. I, p. 45.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1847	XX	The Indian Copyright Act, 1847.	So much as is unrepealed.
[2]1850	XII	The Public Accountants' Defaults Act, 1850.	Ditto.
[3] ,,	XVIII	The Judicial Officers' Protection Act, 1850.	The whole Act.
[4] ,,	XIX	The Apprentices Act, 1850	So much as is unrepealed.
[5] ,,	XXXIV	The State Prisoners Act, 1850.	Ditto.
[6] ,,	XXXVII	The Public Servants (Inquiries) Act, 1850.	Ditto.
[*]1851	VIII	The Indian Tolls Act, 1851	Ditto.
[7]1852	XXX	The Indian Naturalization Act, 1852.	Ditto.
[8]1853	II	The Landholders' Public Charges and Duties Act, 1853.	The whole Act.
[9]1855	XII	The Legal Representatives' Suits Act, 1855.	So much as is unrepealed.
[10] ,,	XIII	The Indian Fatal Accidents Act, 1855.	Ditto.
[11] ,,	XXIV	The Penal Servitude Act, 1855.	Ditto.
[12]1857	XI	The State Offences Act, 1857.	Ditto.
[13] ,,	XXV	The Forfeiture Act, 1857 .	Ditto.
[14]1858	III	The State Prisoners Act, 1858.	Section 5.
[15] ,,	XXXV	The Lunacy (District) Courts Act, 1858.	So much as is unrepealed.

[1] General Acts, Vol. I, p. 49.
[2] ,, ,, ,, ,, p. 60.
[3] ,, ,, ,, ,, p. 62.
[4] ,, ,, ,, ,, p. 64.
[5] ,, ,, ,, ,, p. 73.
[6] ,, ,, ,, ,, p. 74.
[7] ,, ,, ,, ,, p. 85.
[8] General Acts, Vol. I, p. 88.
[9] ,, ,, ,, ,, p. 97.
[10] ,, ,, ,, ,, p. 98.
[11] ,, ,, ,, ,, p. 101.
[12] ,, ,, ,, ,, p. 121.
[13] ,, ,, ,, ,, p. 131.
[14] ,, ,, ,, ,, p. 142.
[15] General Acts, Vol. I, p. 151.

[*] *See* however the modification in s. 4 of the Act so far as Upper Burma is concerned, *supra*, p. 262. The Schedule to the Act is also not in force in Upper Burma except as to rates of toll levied theretofore. *See* General Acts, Vol. I, p. 82. The Indian Tolls Act, 1864 (XV of 1864) is now in force in Upper Burma (except the Shan States), *see* next page.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1858	XXXVI	The Indian Lunatic Asylums Act, 1858.	So much as is unrepealed.
[2]1859	IX	The Forfeiture Act, 1859.	Ditto.
[3]1860	IX	The Employers and Workmen (Disputes) Act, 1860.	Ditto.
[4] ,,	XXI	The Societies Registration Act, 1860.	Ditto.
[5] ,,	XLV	The Indian Penal Code .	Ditto.
[c]1861	V	The Police Act, 1861 .	Ditto.
[6]1863	XVI	The Excise (Spirits) Act, 1863.	Ditto.
[7]1864	III	The Foreigners Act, 1864.	Ditto.
[b][8] ,,	VI	The Whipping Act, 1864 .	So much as is unrepealed, except section 6.
[9] ,,	XV	The Indian Tolls Act, 1864.	The whole Act.
[10]1865	III	The Carriers Act, 1865 .	So much as is unrepealed.
[11] ,,	X	The Indian Succession Act, 1865.	Ditto.
[12] ,,	XXI	The Parsi Intestate Succession Act, 1865.	The whole Act.
[c]1867	III	The Public Gambling Act, 1867.	So much as is unrepealed.
[13] ,,	XXV	The Press and Registration of Books Act, 1867.	Ditto.
[14]1869	IV	The Indian Divorce Act, 1869.	Ditto.
[15] ,,	V	The Indian Articles of War.	Ditto.

[1] General Acts, Vol. I, p. 156.
[2] ,, ,, ,, ,, p. 207.
[3] ,, ,, ,, ,, p. 211.
[4] ,, ,, ,, ,, p. 213.
[5] *See* note [d] below.
[6] ,, ,, ,, ,, p. 403.
[7] ,, ,, ,, ,, p. 422.
[8] General Acts, Vol. I, p. 429.
[9] ,, ,, ,, ,, p. 436.
[10] ,, ,, ,, ,, p. 450.
[11] ,, ,, ,, ,, p. 468.
[12] ,, ,, ,, ,, p. 574.
[13] ,, ,, ,, ,, p. 634.
[14] ,, ,, Vol. II, p. 4.
[15] General Acts, Vol. II, p. 38.

[a] For scope of the Act as regards Burma, *see* s. 46 and footnote 2, General Acts, Vol. I, pp. 394, 395.

[b] For modifications of this Act in its application to Upper Burma, *see supra*, p. 262 and *infra*, p. 275.

[c] *See* now the Burma Gambling Act, 1899 (Burma Act I of 1899), *infra*, p. 574.

[d] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1869	XV	The Prisoners' Testimony Act, 1869.	So much as is unrepealed.
[2] „	XX	The Indian Volunteers Act, 1869.	Ditto.
[3]1870	VII	The Court-fees Act, 1870.	Ditto.
[4] „	XXIII	The Indian Coinage Act, 1870.	Ditto.
[5]1871	I	The Cattle-trespass Act, 1871.	The whole Act.
[6] „	V	The Prisoners Act, 1871 .	So much as is unrepealed.
[7] „	XXIII	The Pensions Act, 1871 .	Ditto.
[a][8]1872	I	The Indian Evidence Act, 1872.	Ditto.
[9] „	IX	The Indian Contract Act, 1872.	Ditto.
[10] „	XV	The Indian Christian Marriage Act, 1872.	Ditto.
[11]1873	V	The Government Savings Banks Act, 1873.	Ditto.
[12] „	X	The Indian Oaths Act, 1873.	Ditto.
[13]1874	II	The Administrator General's Act, 1874.	Ditto.
[14] „	III	The Married Women's Property Act, 1874.	Ditto.
[15] „	IV	The Foreign Recruiting Act, 1874.	Ditto.
[16]	IX	The European Vagrancy Act, 1874.	Ditto.
[17] „	XIV	The Scheduled Districts Act, 1874.	Ditto.

[1] General Acts, Vol. II, p. 103.
[2] „ „ „ „ p. 112.
[3] „ „ „ „ p. 124.
[4] „ „ „ „ p. 172.
[5] „ „ „ „ p. 183.
[6] „ „ „ „ p. 195.
[7] „ „ „ „ p. 205.
[8] *See* note [a] below.
[9] General Acts, Vol. II, p. 299.
[10] „ „ „ „ p. 373.
[11] „ „ „ „ p. 407.
[12] „ „ „ „ p. 411.
[13] „ „ „ „ p. 419.
[14] „ „ „ „ p. 446.
[15] „ „ „ „ p. 450.
[16] „ „ „ „ p. 453.
[17] General Acts, Vol. II, p. 467.

[a] *See* now the revised edition of the Act as modified up to 1st April, 1899, published by the Legislative Department. For modification of the Act in its application to Upper Burma, *see supra*, p. 262.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1875	V	The Unattested Sepoys Act, 1875.	The whole Act.
[2] „	IX	The Indian Majority Act, 1875.	Ditto.
[3] „	XIII	The Probate and Administration Act, 1875.	So much as is unrepealed.
[4]1876	XI	The Presidency Banks Act, 1876.	Ditto.
[5] „	XIX	The Dramatic Performances Act, 1876.	The whole Act, except section 12.
[6]1877	I	The Specific Relief Act, 1877.	So much as is unrepealed.
[7] „	II	The Probate and Administration Act, 1877.	Ditto.
[8] „	XI	The Military Lunatics Act, 1877.	Ditto.
[9] „	XV	The Indian Limitation Act, 1877.	Ditto.
[10]1878	I	The Opium Act, 1878 .	Ditto.
[11] „	VI	The Indian Treasure-trove Act, 1878.	Ditto.
[12] „	VIII	The Sea Customs Act, 1878.	The whole Act.
[13] „	XI	The Indian Arms Act, 1878.	So much as is unrepealed.
[14]1879	I	The Indian Stamp Act, 1879.	Ditto.
[15] „	III	The Destruction of Records Act, 1879.	Sections 2, 4, 5, 7 and 8.

[1] General Acts, Vol. II, p. 502.
[2] „ „ „ „ p. 503.
[3] „ „ „ „ p. 505.
[4] „ „ „ „ p. 514.
[5] „ „ „ „ p. 547.
[6] „ „ Vol III, p. 5.
[7] „ „ „ „ p. 36.
[8] General Acts, Vol. III, p. 71.
[9] *See* note [*] below.
[10] „ „ „ „ p. 111.
[11] „ „ „ „ p. 119.
[12] „ „ „ „ p. 168.
[13] „ „ „ „ p. 243.
[14] *See* now the Indian Stamp Act, 1899 (II of 1899).
[15] General Acts, Vol. III, p. 254.

[*] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1] 1879	XI	The Local Authorities Loan Act, 1879.	The whole Act.
[2] „	XIV	The Hackney Carriage Act, 1879.	So much as is unrepealed.
[3] „	XX	The Glanders and Farcy Act, 1879.	Ditto.
[4] „	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	Ditto.
[5] 1880	V	The Burma Boundaries Act, 1880.	Ditto.
[6] „	XIII	The Vaccination Act, 1880.	The whole Act.
[7] 1881	V	The Probate and Administration Act, 1881.	So much as is unrepealed.
[8] „	XI	The Municipal Taxation Act, 1881.	The whole Act.
[9] „	XXVI	The Negotiable Instruments Act, 1881.	So much as is unrepealed.
[10] 1882	VI	The Indian Companies Act, 1882.	The whole Act.
[11] „	XII	The Indian Salt Act, 1882.	Sections 1, 2, 6, 7 and 8 and Chapter IV.
[12] „	XIV	The Code of Civil Procedure.	So much as is unrepealed.
[13] „	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	The whole Act.
[14] „	XX	The Indian Paper Currency Act, 1882.	So much as is unrepealed.
[15] 1883	XIX	The Land Improvement Loans Act, 1883.	Ditto.

[1] General Acts, Vol. III, p. 259.
[2] *Supra*, p. 39.
[3] *See* now the Glanders and Farcy Act, 1899 (XIII of 1899).
[4] General Acts, Vol. III, p. 288.
[5] *Supra*, p. 77.
[6] *Supra*, p. 86.
[7] General Acts, Vol. III, p. 339.
[8] General Acts, Vol. III, p. 378.
[9] „ „ „ „ p. 399.
[10] „ „ Vol. IV, p. 100.
[11] „ „ „ „ p. 221.
[12] „ „ „ „ p. 262.
[13] *Supra*, p. 129.
[14] General Acts, Vol. IV, p. 634.
[15] „ „ „ „ p. 658.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1884	IV	The Indian Explosives Act, 1884.	So much as is unrepealed.
[2] „	VI	The Inland Steam-vessels Act, 1884.	Ditto.
[3] „	XII	The Agriculturists' Loans Act, 1884.	The whole Act.
[a] „	XVI	The Burma Gaming Act, 1884.	Ditto.
[4]1885	XIII	The Indian Telegraph Act, 1885.	Ditto
[5]1886	II	The Indian Income-tax Act, 1886.	So much as is unrepealed.
[6] „	VI	The Births, Deaths and Marriages Registration Act, 1886.	Ditto.
[7] „	XI	The Indian Tramways Act, 1886.	Ditto.
[b] „	XII	The Petroleum Act, 1886 .	The whole Act.
[8] „	XIII	The Indian Securities Act, 1886.	So much as is unrepealed.
[9]1887	VII	The Suits Valuation Act, 1887.	Ditto.
[10] „	IX	The Provincial Small Cause Courts Act, 1887.	Ditto.
[11] „	XIII	The Electricity Act, 1887 .	The whole Act.
[12] „	XIV	The Indian Marine Act, 1887.	Ditto.
[13] „	XV	The Burma Military Police Act, 1887.	Ditto.
[14] „	XX	The Wild Birds' Protection Act, 1887.	Ditto.

[1] General Acts, Vol. IV, p. 703.
[2] „ „ „ „ p. 713.
[3] „ „ „ „ p. 755.
[4] „ „ „Vol. V,p, 11.
[5] „ „ „ „ p. 31.
[6] „ „ „ „ p. 53.
[7] „ „ „ „ p. 73.
[8] General Acts, Vol. V, p. 113.
[9] „ „ „ „ p. 123.
[10] „ „ „ „ p. 128.
[11] „ „ „ „ p. 158.
[12] „ „ „ „ p. 164.
[13] *Supra*, p. 173.
[14] General Acts, Vol. V, p. 197.

[a] *See* now the Burma Gambling Act, 1899 (Burma Act I of 1899), *infra*, p. 574.
[b] *See* now the Indian Petroleum Act, 1899 (VIII of 1899).

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1888	III	The Police Act, 1888	The whole Act.
[2] ,,	V	The Inventions and Designs Act, 1888.	Ditto.
[3] ,,	VIII	The Indian Tolls Act, 1888.	So much as is unrepealed.
[4] ,,	XVIII	The Burma Financial Commissioners Act, 1888.	Ditto.
[5]1889	I	The Metal Tokens Act, 1889.	Ditto.
[6] ,,	II	The Measures of Length Act, 1889.	The whole Act.
[7] ,,	IV	The Indian Merchandise Marks Act, 1889.	So much as is unrepealed.
[8] ,,	VI	The Probate and Administration Act, 1889.	So much as is unrepealed, except section 21.
[9] ,,	VII	The Succession Certificate Act, 1889.	The whole Act.
[10] ,,	XI	The Lower Burma Courts Act, 1889.	Sections 46 and 47.
[11] ,,	* XIII	The Cantonments Act, 1889.	So much as is unrepealed.
[12] ,,	XV	The Indian Official Secrets Act, 1889.	The whole Act.
[13]1890	I	The Revenue Recovery Act, 1890.	Ditto.
[14] ,,	VI	The Charitable Endowments Act 1890.	Ditto.
[15] ,,	VIII	The Guardians and Wards Act, 1890.	Ditto.
[16] ,,	IX	The Indian Railways Act, 1890.	So much as is unrepealed.

[1] General Acts, Vol. V, p. 199.
[2] ,, ,, ,, ,, p. 205.
[3] ,, ,, ,, ,, p. 250.
[4] *Supra*, p. 180.
[5] General Acts, Vol. V, p. 258.
[6] ,, ,, ,, ,, p. 260.
[7] ,, ,, ,, ,, p. 262.
[8] ,, ,, ,, ,, p. 274.
[9] General Acts, Vol. V, p. 281.
[10] ,, ,, ,, ,, p. 297.
[11] ,, ,, ,, ,, p. 335.
[12] ,, ,, ,, ,, p. 353.
[13] ,, ,, ,, ,, p. 357.
[14] ,, ,, ,, ,, p. 376.
[15] ,, ,, ,, ,, p. 384.
[16] ,, ,, ,, ,, p. 410.

THE FIRST SCHEDULE—*contd.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*contd.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—contd.	
[1]1890	XI	The Prevention of Cruelty to Animals Act, 1890.	The whole Act.
[2] ,,	XIII	The Excise (Malt Liquors) Act, 1890.	Section 9.
[3]1891	XVIII	The Bankers' Books Evidence Act, 1891.	The whole Act.
[4]1892	II	The Marriages Validation Act, 1892	Ditto.
[5] ,,	X	The Government Management of Private Estates Act, 1892.	Ditto.
[6] 1893	IV	The Partition Act, 1893 .	Ditto.
[7] ,,	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893.	Ditto.
[8]1894	I	The Land Acquisition Act, 1894.	Ditto.
[9] ,,	IX	The Prisons Act, 1894 .	Ditto.
[10]1895	IX	The Extradition (India) Act, 1895.	Ditto.
[11] ,,	X	The Indian Railway Companies Act, 1895.	Ditto.
[12] ,	XII	The Indian Companies (Memorandum of Association) Act, 1895.	Ditto.
[13] ,,	XV	The Crown Grants Act, 1895.	Ditto.
[14] ,,	XX	*Ex*-King Thebaw's Act, 1895.	Ditto.
[15]1896	XII	The Excise Act, 1896 .	Ditto.
[16]1897	III	The Epidemic Diseases Act, 1897.	Ditto.

[1] General Acts, Vol. V, p. 465.
[2] ,, ,, ,, ,, p. 468.
[3] ,, ,, Vol. VI, p. 83.
[4] ,, ,, ,, ,, p. 85.
[5] ,, ,, ,, ,, p. 90.
[6] ,, ,, ,, ,, p. 93.
[7] ,, ,, ,, ,, p. 95.
[8] ,, ,, ,, ,, p. 100.
[9] General Act Vol. VI, p. 159.
[10] ,, ,, ,, ,, p. 233.
[11] ,, ,, ,, ,, p. 235.
[12] ,, ,, ,, ,, p. 237.
[13] ,, ,, ,, ,, p. 240.
[14] *Not published.*
[15] *Supra*, p. 242.
[16] General Acts, Vol. VI, p. 289.

(The First Schedule. Enactments declared in force in Upper Burma. The Second Schedule. Addition to the Whipping Act, 1864.)

THE FIRST SCHEDULE—*concld.*

ENACTMENTS DECLARED IN FORCE IN UPPER BURMA—*concld.*

1	2	3	4
Year.	No.	Short title.	Extent of application.
		Acts of the Governor General in Council—concld.	
[1]1897	VIII	The Reformatory Schools Act, 1897.	The whole Act.
[2]„	IX	The Provident Funds Act, 1897.	Ditto.
[3]„	X	The General Clauses Act, 1897.	Ditto.
[4]„	XII	The Local Authorities' (Emergency) Loans' Act, 1897.	Ditto.
[5]„	XIV	The Indian Short Titles Act, 1897.	Ditto.
[6]1898	II	The Indian Paper Currency Act, 1898.	Ditto.
[7]„	III	The Lepers Act, 1898.	Ditto.
[8]„	V	The Code of Criminal Procedure, 1898.	The whole Code (subject to the provisions of the Upper Burma Criminal Justice Regulation, 1892).
[9]„	VI	The Indian Post Office Act, 1898.	The whole Act.
[10]„	IX	The Live-stock Importation Act, 1898.	Ditto.

THE SECOND SCHEDULE.

[*See section 4, sub-section (3), clause (b).*]

ADDITION TO THE WHIPPING ACT, 1864.

Offenders punishable with whipping in certain other cases.

"6. (*1*) Notwithstanding anything in the foregoing sections of this Act, a person convicted of an offence specified in the List of Offences annexed hereto or of any offence which the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the

[1] General Acts, Vol. VI, p. 304.
[2] „ „ „ „ p. 313.
[3] „ „ „ „ p. 316.
[4] „ „ „ „ p. 330.
[5] „ „ „ „ p. 331.
[6] *Not published.*
[7] General Acts, Vol. VI, p. 345.
[8] „ „ „ „ p. 380.
[9] „ „ „ „ p. 683.
[10] „ „ „ „ p. 707.

Burma Gazette, add to that List, shall be punishable with whipping, either in lieu of, or in addition to, any other punishment to which he may be liable.

"(*2*) The Local Government may, by notification in the Burma Gazette, suspend the operation of this section, in whole or in part, in any district or part of a district, and, with the previous sanction of the Governor General in Council, by a like notification, remove the suspension of its operation.

"(*3*) This section shall be read subject to the provisions of section 393 of the Code of Criminal Procedure, 1898.[1] V of 18

"THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
148	Rioting armed with deadly weapon.
302	Murder.
304	Culpable homicide not amounting to murder.
307	Attempt to murder.
325	Voluntarily causing grievous hurt.
326	Voluntarily causing grievous hurt by dangerous weapons or means.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.
333	Voluntarily causing grievous hurt to deter a public servant from his duty.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.
386	Extortion by putting a person in fear of death or grievous hurt.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.
392	Robbery.
393	Attempt to commit robbery.

[1] Printed, General Acts, Vol. VI, p. 380.

(*The Second Schedule. Addition to the Whipping Act, 1864.*)

THE SECOND SCHEDULE—*concld.*

"THE LIST OF OFFENCES.

Section of Indian Penal Code.	Offence.
394	Person voluntarily causing hurt in committing or attempting to commit robbery or any other person jointly concerned in such robbery.
395	Dacoity.
396	Murder in dacoity.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.
399	Making preparation to commit dacoity.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.
402	Being one of five or more persons assembled for the purpose of committing dacoity.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.
435	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.
440	Mischief committed after preparation made for causing death or hurt, etc.
455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, etc.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.
506	Criminal intimidation, if threat be to cause death or grievous hurt, etc.
	Abetment of any of the foregoing offences.
	Attempt to commit any of those offences which are not themselves expressed to be attempts to commit offences."

THE THIRD SCHEDULE.

(*See section 16.*)

AMENDMENTS.

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Acts of the Governor General in Council.	
1875	VII	The Burma Fisheries Act, 1875.	To section 2 *add* :— "fixed obstruction" includes a weir, lock, bank or dam, or any fixed engine which impedes navigation, interferes with the flow of water, or prevents fish from proceeding up or down stream : and "implement" includes any implement or engine for catching fish other than a fixed obstruction. In section 6, *for the first thirty words substitute* No fixed obstruction.
1876	II	The Burma Land and Revenue Act, 1876.	In section 55, in the second proviso, *for* Chief Commissioner, *substitute* Financial Commissioner.
1877	XIII	The Burma Embankment Act, 1877.	In section 7, clause (*a*), *after* charge *insert* or of which he is the owner.
1879	IX	The Burma Coast-lights Act, 1879.	In section 16, *for* on or before the first day of October in each year, publish *substitute* publish annually.
,,	XV	The Rangoon Port Commissioners Act, 1879.	In section 1, *for the last sentence substitute* Nothing herein contained shall affect the powers conferred on the Local Government under the Indian Ports Act, 1889, section 36, sub-section (5).
1880	II	The Lower Burma District Cesses and Rural Police Act, 1880.	In section 1, *for the second proviso substitute* Provided also that nothing herein contained applies to any town to which the Burma Municipal Act, 1898, extends. In section 9, *for the proviso substitute* :— Provided that the Local Government may at any time, for reasons to be recorded, transfer a sum of money from the accounts of any one district to the accounts of any other district.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Acts of the Governor General in Council—contd.	
1881	II	The Pegu and Sittang Canal Act, 1881.	In section 15 *for* Deputy Commissioners of Rangoon and Shwegyin, *substitute* Deputy Commissioner of Pegu; *and omit* in the said districts respectively.
„	XIX	The Burma Forest Act, 1881.	In section 3, *after* Deputy Conservators, *insert* Extra Deputy Conservators, *and for* Sub-Assistant Conservators, *substitute* Extra Assistant Conservators. In the heading to Chapter IV, *for* NATURAL PRODUCE *substitute* FOREST-PRODUCE. In section 37, *for* pasturage or of the natural produce, *substitute* forest-produce, *and in clauses* (*c*), (*g*) and (*h*) *for* natural produce, *wherever the words occur, substitute* forest-produce. In section 43, clauses (*g*) and (*h*), *for* stations, *wherever the word occurs, substitute* revenue-stations. In section 45, *for* station, *wherever the word occurs, substitute* revenue-station.
1882	XVIII	The Burma Steam-boilers and Prime-movers Act, 1882.	In section 18, after clause (*a*) *insert* :— (*aa*) for delegating to Commissioners all or any of the powers conferred upon him by sections 3 and 9.
1883	XXII	The Rangoon Tramways Act, 1883.	In section 2, *for the definition of* "committee" *substitute* — "committee" means the committee for the town of Rangoon continued or appointed under the Burma Municipal Act, 1898.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (2), *after* and *add* applies to every member of the Burma military police-force wherever he may be; and.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part I.—Acts of the Governor General in Council—concld.			
1889	III	The Lower Burma Village Act, 1889.	In section 6, sub-section (*1*), *for the first eight words substitute* :— The headman of a village shall be bound to perform the following public duties, namely :— In section 6, sub-section (*2*), *for* duties *substitute* public duties. In section 8, *for* duties *substitute* public duties.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).			
1874	IX	The Arakan Hill District Laws Regulation, 1874.	*For* section 5 *substitute* :— 5. Notwithstanding anything in the Indian Arms Act, 1878, or in any rule under that Act, no license to manufacture, or deal in, arms or ammunition shall be granted without the express sanction of the Local Government. Operation of Act XI, 1878. In the first division (*Acts*) of the schedule, *omit* the entries in the fourth column relating to Act XXXVII of 1850, and to the division *add* :—

XIV of 1874	Scheduled Districts	The whole Act, except section 10.
XV of 1874	Laws Local Extent.	The whole Act, except sections 4, 5, 6 and 7.
V of 1875	Unattested Sepoys	The whole Act.
VII of 1875	Burma Fisheries.	The whole Act.
IX of 1875	Majority.	The whole Act.
I of 1897	Amending Act XXXVII of 1850.	The whole Act.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1887	V	The Upper Burma Municipal Regulation, 1887.	In section 21, *after* any rule made under *insert* section 6 or, *and for* that section *substitute* section 12.
,,	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 2, sub-section (2), *for* Chindwin *substitute* Upper Chindwin, *after* Bhamo *insert* Myitkyina, *and for* Yamethin and Pyinmana *substitute* and Yamethin.
,,	XII	The Upper Burma Ruby Regulation, 1887.	In section 16, *for* Upper Burma Land Acquisition Regulation, IX of 1886, *substitute* Land Acquisition Act, 1894, *and for* that Regulation *substitute* that Act.
,,	XIV	The Upper Burma Village Regulation, 1887.	In section 5, *for the first eight words substitute* :— The headman of a village shall be bound to perform the following public duties, namely :— In section 7, *for* duties *substitute* public duties. *After* section 14 *add* :— 14 A. (*1*) Whoever holds a *pwè* in any village without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for holding, promoting or taking part in unlicensed *pwès*. (*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 36, sub-section (*1*) *for* shall ascertain *substitute* may ascertain.

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1891	VI	The Upper Burma Towns Regulation, 1891.	*After* section 7 *add* :— 7A. (*1*) Whoever holds a *pwè* in any [1][town] without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for holding, promoting or taking part in, unlicensed *pwès*. (*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (*1*), *for* 1882 *substitute* 1898. In the second column of the table annexed to section 5 of the schedule, *for* To entertain cases without complaint, section 191, clause (*c*), *substitute* To take cognizance of any offence upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed, section 190, sub-section (*1*), clause (*c*); *for* To entertain complaints, section 191, *substitute* To take cognizance of an offence upon receiving a complaint of facts which constitute such offence, section 190, sub-section (*1*), clause (*a*); *and for* To receive police-reports, section 191, clause (*b*), *substitute* To take cognizance of an offence upon a police-report of facts which constitute such offence, section 190, sub-section (*1*), clause (*b*).

[1] This word was substituted, as from the commencement of this, for the word "village" by the Upper Burma Towns Regulation, 1899 (II of 1899), printed, *infra*, p. 45.
The alteration takes effect from the commencement of this Act, *see ibid.*

THE THIRD SCHEDULE—*contd.*

AMENDMENTS—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.			
1892	V—*contd.*		*After* section XIV of the schedule *add* :— XIVA. Notwithstanding anything in section 526, a Court of Session may,— (Transfer of cases. (Section 526.)) (1) if it is absolutely debarred by section 487 from trying any case committed to it, or by section 556 from hearing any appeal pending before it, direct that such case or appeal be transferred for trial or hearing to any other Criminal Court of equal jurisdiction ; (2) exercise as regards all Criminal Courts subordinate to its authority all the powers with respect to the transfer of criminal cases and appeals conferred upon the High Court by section 526 : Provided, first, that an application for the exercise of the power conferred by this section, if founded upon a report of the Judge or Magistrate before whom the case or appeal is pending, need not be supported by affidavit or affirmation : Provided, secondly, that the Court shall, before directing the transfer of a case or of an appeal under this section, issue a notice to the accused requiring him to show cause on a certain day, to be fixed in the notice, why the said case or appeal should not be transferred to some Court therein named or to such other Court of competent jurisdiction as might be determined : Provided, thirdly, that the High Court may, on the application of the accused or of the Public Prosecutor, reverse or vary any order made by a Court of Session under this section or substitute any other order in lieu thereof.

THE THIRD SCHEDULE—*concld.*

AMENDMENTS—*concld.*

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—concld.	
1892	V—*concld.*		In section XVI of the schedule, *for* 553, clause (*c*), *substitute* 554, sub-section (*2*), clause (*c*).
1896	I	The Upper Burma Civil Courts Regulation, 1896.	To section 12 *add*:— (*4*) The period of limitation for an appeal to the Divisional Court under clause (*b*) of sub-section (*3*) shall be sixty days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877. To section 13 *add*:— The period of limitation for an appeal to the Court of the Judicial Commissioner under this section shall be ninety days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877.
		Part III.—Regulation of the Bengal Code.	
[1]1812	XI	The Bengal Foreign Immigrants Regulation, 1812.	In section 2, *for* he *substitute* it.

[1] This Regulation has not been included in the Volume.

(*The Fourth Schedule. Short Titles.*)

THE FOURTH SCHEDULE.

(*See section 17.*)

SHORT TITLES.

1	2	3	4
Year.	No.	Subject.	Short title.
		Acts of the Governor General in Council.	
1888	XVIII	To provide for the appointment of a Financial Commissioner for Burma and for the definition of his functions.	The Burma Financial Commissioner's Act, 1888.
1892	III	To amend the Rangoon Port Commissioners Act, 1879.	The Rangoon Port Commissioners Act (1879) Amendment Act, 1892.
1894	XI	To amend the Lower Burma Village Act, 1889.	The Lower Burma Village Act (1889) Amendment Act, 1894.
1895	XI	To remove certain doubts as to the validity of certain Proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma and to prevent their being raised in the future.	The Pegu and Tenasserim Validation Act, 1895.
,,	XVIII	To amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892.	The Lower Burma Villages and Towns Law Amendment Act, 1895
		Regulations made under the Government of India Act, 1870 (33 Vict., c. 3.)	
1891	I	To amend the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and the Upper Burma Village Regulation, 1887	The Upper Burma Village Regulation (1887) Amendment Regulation, 1891.
,,	V	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891.
1892	II	To amend the Arakan Hills Civil Justice Regulation, 1874.	The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892.

THE FOURTH SCHEDULE—*concld.*

SHORT TITLES—*concld.*

1	2	3	4
Year.	No	Subject.	Short title.
		Regulations made under the Government of India Act, 1870 (33 Vict., c. 3 —concld.	
1894	III	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894.
,,	IV	To amend the Upper Burma Village Regulation, 1887.	The Upper Burma Village Regulation (1887) Amendment Regulation, 1894.
1895	II	To amend the Upper Burma Land and Revenue Regulation, 1889.	The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895.
1896	IV	To amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891.	The Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896.
1897	I	To amend the Upper Burma Ruby Regulation, 1887.	The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897.

THE FIFTH SCHEDULE.

(*See section 18.*)

REPEALS.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council.	
1846	I	The Legal Practitioners Act, 1846.	The whole Act, in so far as it applies to Burma.

(*The Fifth Schedule. Repeals.*)

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—contd.	
1853	XX	The Legal Practitioners Act, 1853.	The whole Act, in so far as it applies to Burma.
1854	XXVI	Making better provision for the education of male minors subject to the superintendence of the Court of Wards.	The whole Act, in so far as it applies to Burma.
1875	VII	The Burma Fisheries Act, 1875.	In section 2, *the word* and *where it occurs after the word* eggs. In section 7, *the words* or fixed engine *and the words* or engine *wherever they occur.* In section 8, clause (*c*), *the words* and engines.
1876	II	The Burma Land and Revenue Act, 1876.	In section 40, clause (*a*), *the words* prepare or, *the words* preparing or *and the words* cutch, beeswax, honey, lac, cardamoms and other forest-produce or, Section 61.
1879	XV	The Rangoon Port Commissioners Act, 1879.	Section 43. In section 56, the proviso. In section 67, *the word* now *in each of the places in which it occurs.*
1882	XX	The Indian Paper Currency Act, 1882.	In section 5, clause (*e*), section 7, clause (*b*), and section 17, *the word* British *wherever it occurs.*
1884	XVII	The Burma Municipal Act, 1884.	The whole Act.
1886	XX	The Upper Burma Laws Act, 1886.	Ditto.
1887	XV	The Burma Military Police Act, 1887.	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma), except the Shan States.

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—contd.	
1888	XV	The Shan States Act, 1888.	The whole Act.
,,	XVIII	The Burma Financial Commissioner's Act, 1888.	In section 1, sub-section (*1*), *the words* (inclusive of Upper Burma), except the Shan States. So much of section 7 and of the schedule as relates to Act XX of 1886.
,,	XIX	Amending the Burma Municipal Act, 1884.	The whole Act.
[1]1889	VI	The Probate and Administration Act, 1889.	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma), except the Shan States.
[2],,	VII	The Succession Certificate Act, 1889.	In section 1, sub-section (*3*), *the words* (inclusive of Upper Burma), except the Shan States.
,,	XI	The Lower Burma Courts Act, 1889.	So much of section 2 and of the first schedule as relates to Act XX of 1886 Section 4. So much of section 97 and of the second schedule as relates to Regulation IX of 1874. Sections 99, 100, 101, 102 and the third schedule.
[3],,	XIII	The Cantonments Act, 1889.	In section 1, sub-section (*2*), *the words* inclusive of Upper Burma. So much of section 2 and of the schedule as relates to Act XX of 1886.
[4]1890	I	The Revenue Recovery Act, 1890.	In section 1, sub-section (*2*), *the words* Upper Burma and.
[5],,	VI	The Charitable Endowments Act, 1890.	In section 1, sub-section (*2*), *the words* Upper Burma and.

[1] General Acts, Vol V, p. 274.
[2] ,, ,, ,, ,, p. 281.
[3] ,, ,, ,, ,, p. 335.
[4] ,, ,, ,, ,, p. 357.
[5] ,, ,, ,, ,, p. 376

(The Fifth Schedule. Repeals.)

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
Part I.—Acts of the Governor General in Council—contd.			
[1] 1890	VIII	The Guardians and Wards Act, 1890.	In section 1, sub-section (2), *the words* Upper Burma and.
[2] „	IX	The Indian Railways Act, 1890.	In section 1, sub-section (2), *the words* of Upper Burma and. So much of section 2 and of the first schedule as relates to Act XX of 1886.
[3] 1891	XII	The Repealing and Amending Act, 1891.	So much of the first schedule as relates to Acts XVII of 1884 and XIX of 1888, and so much of the second schedule as relates to Acts XIX of 1881 and XVII of 1884.
„	XIX	The Upper Burma Laws Act Amendment Act, 1891.	The whole Act.
„	XXI	Amending the Lower Burma Municipal Act, 1884.	Ditto.
[4] 1892	X	The Government Management of Private Estates Act, 1892.	In section 1, sub-section (2), *the words* Upper Burma and.
[5] 1894	IX	The Prisons Act, 1894	In section 1, sub-section (2), *the words* Upper Burma. So much of section 2 and of the schedule as relates to Act XX of 1886.
„	XIV	Amending the Burma Municipal Act, 1884.	The whole Act.
1895	II	The Burma Boundaries Act Amendment Act, 1895.	In section 1, sub-section (2), *the words* except the Shan States.
„	XXI	Amending the Upper Burma Laws Act, 1886, and the Shan States Act, 1888.	The whole Act.

[1] General Acts, Vol. V, p. 384.
[2] „ „ „ „ 410.
[3] „ „ Vol. VI, „ 32.
[4] „ „ „ „ 90.
[5] „ „ „ „ 159.

THE FIFTH SCHEDULE—*contd.*

REPEALS—*contd.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part I.—Acts of the Governor General in Council—concld.	
1896	XII	The Excise Act, 1896.	In section 1, sub-section (*2*), *the words* (inclusive of Upper Burma).
[1] 1897	III	The Epidemic Diseases Act, 1897.	In section 1, sub-section (2), *the words* Upper Burma.
[2] ,,	IX	The Provident Funds Act, 1897.	In section 1, sub-section (2) *the words* Upper Burma and.
[3] 1898	III	The Lepers Act, 1898 .	In section 1, sub-section (*2*), *the words* Upper Burma.
[4] ,,	VI	The Indian Post Office Act, 1898.	In section 1, sub-section (*2*), *the words* Upper Burma.
		Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3).	
1874	IX	The Arakan Hill District Laws Regluation, 1874.	So much of the first division (*Acts*) of the schedule as relates to the Female Infanticide Prevention Act, 1870, and so much of the second division (*Bengal Regulations*) of the same as relates to the Bengal State Offences Regulation, 1804, and the Bengal Foreign Immigrants Regulation, 1812
1887	V	The Upper Burma Municipal Regulation, 1887.	In section 3, sub-section (*1*), *the words* except the Shan States.
,,	VI	The Upper Burma Forest Regulation, 1887.	In section 1 sub-section (*2*), *the words* except the Shan States.
,,	IX	The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.	In section 1, sub-section (*2*), *the words* except the Shan States.
,,	X	The Upper Burma Stamps and Limitation Regulation, 1887.	In the preamble, *the words* And whereas it is expedient to limit the amount of interest to be decreed in suits instituted while the law of limitation for the institution of suits is inoperative.

[1] General Acts, Vol. VI, p. 289.
[2] ,, ,, ,, ,, ,, 313.
[3] ,, ,, ,, ,, ,, 345.
[4] ,, ,, ,, ,, ,, 683.
[5] Regulation VI of 1887 has since been repealed by the Upper Burma Forest Regulation, 1898 (V of 1898), printed, *infra*, p. 430.

THE FIFTH SCHEDULE—*concld.*

REPEALS—*concld.*

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
		Part II.—Regulations made under the Government of India Act, 1870 (33 Vict., c. 3)—contd.	
1887	X—*contd.*		In section 1, sub-section (2), *the words* except the Shan States.
,,	XII	The Upper Burma Ruby Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
,,	XIV	The Upper Burma Village Regulation, 1887.	In section 1, sub-section (2), *the words* except the Shan States.
1889	III	The Upper Burma Land and Revenue Regulation, 1889.	In section 1, sub section (2), *the words* except the Shan States.
1891	VI	The Upper Burma Towns Regulation, 1891.	In section 1, sub-section (2), *the words* except the Shan States.
1892	V	The Upper Burma Criminal Justice Regulation, 1892.	In section 2, sub-section (1), *the words* except the Shan States. In section 1, of the schedule, *the words* Local Government with the previous sanction of.
1895	V	Amending the Upper Burma Criminal Justice Regulation, 1892.	The whole Regulation.
1896	I	The Upper Burma Civil Courts Regulation, 1896.	In section 1, sub-section (2), *the words* except the Shan States. Section 4.
,,	VI	Amending the Upper Burma Civil Courts Regulation, 1896.	The whole Regulation.
,,	VII	Repealing the Upper Burma Land Acquisition Regulation, 1886.	Ditto.
		Part III.—Regulation of the Bengal Code.	
1799	V	The Bengal Wills and Intestacy Regulation, 1799.	The whole Regulation, in so far as it applies to Burma.

PART III.

REGULATIONS MADE BY THE GOVERNOR GENERAL IN COUNCIL UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICTORIA, CHAPTER 3), FOR BURMA.

REGULATION No. VIII OF 1874.[1]

Published in the Gazette of India of 20th February, 1875, p. 76, and in the Burma Gazette of 6th March, 1875, p. 242.

Preamble.

WHEREAS by a Resolution passed by the Secretary of State in Council on the fifth day of October, 1871, the provisions of the 33rd of Victoria, chapter 3, section 1, were declared applicable to the Hill District of Arakan;

And whereas the Chief Commissioner[2] of British Burma[3] has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent;

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India, and will be published in the local Gazette, and will thereupon have the force of law.[4]

Preliminary.

Short title.
Local extent.

1. This Regulation may be called the Arakan Hills Civil Justice Regulation, 1874, and it shall extend to the tract of country known as the Hill District of Arakan.

[1] The Arakan Hills Civil Justice Amendment Regulation, 1876 (V of 1876) is to be read with and taken as part of this Regulation, *see infra*, p 314.

[2] Read now "Lieutenant-Governor," *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. All powers conferred or duties imposed upon the Chief Commissioner, shall on and with effect from 1st May, 1897, be deemed to be and to have been, conferred or imposed upon the Lieutenant-Governor of Burma, *see* Burma Laws Act, 1898 (XIII of 1898), s. 15, printed, *supra*, p. 260.

[3] Read now "Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898).

[4] Reg. VIII of 1874 came into force on 6th March, 1875, *see* Burma Gazette, 1875, Pt. I, p. 242.

(*Of the Courts, their Jurisdiction, and the Law to be administered by them. Secs. 2-3.*)

In this Regulation—

words importing the masculine gender include females : words in the singular include the plural, and *vice versâ* :

" person " includes any company or association or body of individuals :

" month " means month reckoned according to the British calendar :

" [1]British India " means the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vict., c. 106, other than the Settlement of Prince of Wales' Island, Singapore and Malacca ; and

" section " means the section of this Regulation.

Of the Courts, their Jurisdiction, and the Law to be administered by them.

Powers of the Courts.

2. The Civil Courts in the said district shall be of three grades (namely)—

The Courts of the Assistant Commissioners and Extra Assistant Commissioners ;

the Court of the Deputy Commissioner ; and

the Court of the Commissioner :

And the powers of such Courts, respectively, shall be as follows :—

(*a*) an Assistant or Extra Assistant Commissioner may try original cases whatever be the value or the amount of the subject-matter thereof :

(*b*) the Deputy Commissioner[2] may, except as hereinafter provided, hear appeals from all decrees and orders of the Assistant Commissioner and Extra Assistant Commissioner :

he may also remove into his own Court any original case pending in the Court of one of these officers, and dispose of it himself, or transfer any such case from the Court of one of these officers to the Court of another :

(*c*) the Commissioner shall be the highest Court of appeal in all civil matters : he may, except as hereinafter provided, hear appeals from the decrees and orders of the Deputy Commissioner whether passed in original cases or on appeal :

he may also remove into his own Court any original case or appeal pending in any subordinate Court, and dispose of the same, or transfer any original case from any one subordinate Court to any other.

Effect of prior adjudication.

3. The Court shall not try any suit in which the matter in issue has been heard and finally decided by a Court of competent jurisdiction in a former suit

[1] *Cf.* s. 3 (7) of the General Clauses Act, 1897 (X of 1897), General Acts, Vol. VI, p. 316.

[2] For jurisdiction of Deputy Commissioner to entertain and try all civil suits originally instituted in his own Court, *see* the Arakan Hills Civil Justice Amendment Regulation, 1876 (V of 1876), s. 2, *infra*, p. 314.

between the same parties in the same rights, or between parties under whom they or any of them claim.

Effect of pending suit. The Courts shall not try any suit in which the matter in issue is also in issue in another suit between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India.

Law to be administered. **4.** When in any civil proceeding it is necessary for any of the Courts mentioned in section 2 to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindu law in cases where the parties are Hindus,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in the said tract.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Of Appearances, Applications and Acts by Parties.

A party may be permitted to appoint an agent; **5.** The Court may in its discretion, for any sufficient reason, permit any appearance, application or act required to be made or done by a party under this Regulation to be made or done by such party through a duly authorized agent. Such permission shall in all cases be granted to persons exempt from personal appearance under sections 55 and 56.

if not so permitted, must appear in person. **6.** Except with the permission of the Court granted under section 5, every such appearance, application or act shall be made or done by the parties in person.

Permission to appoint agent may be withdrawn. **7.** The Court may, if it thinks fit in any case in which it has permitted a party not being a person exempt from personal appearance under sections 55 and 56 to appear by agent, withdraw such permission at any stage of the proceedings, recording its reasons for so doing, and require such party to attend in person.

Consequences of not appearing in person when required. **8.** Any party required to attend in person under section 7, and failing so to attend, shall be subject to all the provisions of sections 26 to 31 applicable to parties who do not appear.

(Of the Institution of Suits. Secs. 9-12. Of the Service of Summons on Defendants. Secs. 13-18.)

Of the Institution of Suits.

Filing plaint or making complaint.

9. The plaintiff may commence his suit either by making to the Judge a verbal complaint which shall be reduced to writing by an officer of the Court, or by presenting a written plaint.

Examination of plaintiff.

10. On a complaint being made or a plaint presented, the Court shall register the suit and examine the plaintiff or his agent as to the merits of his case.

Summary dismissal of suit.

11. If upon such examination it appears that there is no substantial cause of action or that the claim is one which from its nature is not a proper subject of litigation in a Civil Court, the Court may dismiss the suit.

Issue of summons.

12. If upon such examination it is found that the plaintiff sets forth a good cause of action, the Court shall issue a summons to the defendant to appear and answer at a certain place and on a certain day.

Of the Service of Summons on Defendants.

How service shall be made when there are several defendants.

13. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

Service to be on defendant in person.

14. Whenever it is practicable the service shall be on the defendant in person.

Service when defendant cannot be found.

15. When the defendant cannot be found it may be made on any adult male member of his family residing with him.

In all cases the person served is to be required to endorse the summons. But service is sufficient without.

16. In all cases where the summons is served on the defendant personally, or on any person on his behalf, the person on whom the service is made shall be required to sign an acknowledgment of service, to be endorsed on the original summons, or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

Service when personal service cannot be effected.

17. When the defendant cannot be found, and there is no person on whom the service can be made, the service may be effected by fixing the copy of the summons on the outer door of the house in which the defendant is dwelling, if he is dwelling at any place within the district.

Time and manner of service to be endorsed on summons.

18. The person serving a summons shall, in all cases in which the summons has been served, endorse on the original summons, or on a copy thereof under the seal of the Court, the time when, and the manner in which, it was served.

(*Of the Service of Summons on Defendants. Secs. 19-23. Consequences of Non-appearance of Parties. Sec. 24.*)

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

19. When a summons is returned to the Court without having been served if the plaintiff satisfies the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the court-house, and also upon the door of the house in which the defendant last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court thinks proper. And the service so substituted by order of the Court shall be as effectual as if it had been made in the manner above specified.

When service is substituted, the time for appearance to be fixed.

20. Whenever service is substituted by order of the Court by virtue of the power contained in the last preceding section, the Court shall fix such time for the appearance of the defendant as the case may require.

Service of summons when defendant resides beyond limits of district.

21. If the defendant be resident beyond the limits of the district and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons for service to any Court having jurisdiction at the place where the defendant resides by which it can be most conveniently served.

Service of summons when defendant resides out of British India. Procedure in case of non-appearance of defendant.

22. If the defendant be resident out of British India and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside and forwarded to him by post or otherwise; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant does not appear, the plaintiff may apply to the Court, and the Court may direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Service on agent in charge of immoveable property.

23. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, the summons may be served on any agent of the defendant in charge of such property.

Consequences of Non-appearance of Parties.

If neither party appear, suit to be dismissed.

24. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto, to which the hearing of the suit may be adjourned, neither party appears when called upon by the Court, the suit shall be dismissed.

Or if sufficient excuse for non-

Whenever a suit is dismissed under this section, the plaintiff may bring a fresh suit; or, if within the period of thirty days he satisfies the Court that

there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed or complaint already recorded. appearance, a fresh summons may be issued.

25. If the plaintiff appears and the defendant does not appear and it is proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. If plaintiff only appear, Court may proceed *ex parte*.

If the defendant appears on any subsequent day to which the hearing of the suit is adjourned, and assigns good cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance. If defendant appear on day of adjourned hearing, he may be heard.

26. If the plaintiff appears and the defendant does not appear, and it is not proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes. If due service of summons be not proved, Court may order issue of second summons.

27. If the plaintiff appears and it is proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant. If service was not in due time, Court may adjourn hearing and direct notice to be given to defendant

28. If the defendant appears and the plaintiff does not appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admits the claim, in which case the Court shall pass judgment against the defendant upon such admission. If defendant only appears, Court to pass judgment by default.

When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action. No fresh suit after such judgment.

29. If there are two or more plaintiffs and one or more of them appear and the other or others of them do not appear, the Court may proceed with the suit at the instance of the plaintiff or plaintiffs who appear in the same way as if all the plaintiffs had appeared, and pass such order as may be just and proper in the circumstances of the case; Consequence of non-appearance of one or more of several plaintiffs.

and if there are two or more defendants, and one or more of them appear and the other or others of them do not appear, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order, with respect to the defendant or defendants who have not appeared, as is just and proper in the circumstances of the case. Consequence of non-appearance of one or more of several defendants.

30. No appeal shall lie from a judgment passed *ex parte* against a No appeal from

judgments passed *ex parte* or by default.

defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance :

When and how judgment *ex parte* against a defendant may be set aside.

But in all cases in which judgment is passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside ; and, if it is proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit.

When and how judgment by default against a plaintiff may be set aside.

In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside ; and, if it is proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default and shall appoint a day for proceeding with the suit :

No judgment to be set aside without notice to opposite party.

But no judgment shall be set aside on any such application as aforesaid unless notice thereof have been served on the opposite party.

Order for setting aside judgment shall be final. An appeal from order of rejection.

In all cases in which the Court passes an order under this section for setting aside a judgment, the order shall be final ;

but, in all cases in which the Court rejects the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable :

Proviso.

Provided that the appeal be preferred within the time allowed for an appeal from such final decision.

Of fixing Issues and of the Preparations for the Hearing.

Framing of issues.

31. If both parties or their agents are present on the day fixed for the defendant to appear and answer, or on any subsequent day to which the proceedings may be adjourned for this purpose, the Judge shall examine them with a view to ascertaining upon what questions of law and fact the parties are at issue, and, having with his own hand made a note of such examination, shall frame and record the issues of law and fact on which the right decision of the case may depend.

Examination of parties as to the evidence to be adduced by

32. If the parties are at issue on any question of fact, the Court shall then further examine them or their agents as to the evidence they intend to adduce upon such question, and shall fix a time and place for the hearing of the suit ;

(*Of fixing Issues and of the Preparations for the Hearing. Secs. 33-34. Of the Hearing. Secs. 35-37. Of Commissions to take Evidence, make local Enquiries and examine Accounts. Sec. 38.*)

and, upon such sums being deposited for the expenses of witnesses as the Court thinks reasonable, shall issue such summonses for the attendance of witnesses and the production of documents as the parties may desire.

them, etc Issue of summons to witnesses.

33. Every summons to a witness shall be served as nearly as may be in the manner already hereinbefore provided for the service of summons on a defendant.

Service of summons on witnesses.

34. If any witness on whom a summons has been so served neglects or refuses to appear at the time and place appointed, and offers no reasonable excuse for such neglect or refusal, the Court may issue a warrant to bring such witness before it to give his evidence.

Witness neglecting to attend may be arrested.

Of the Hearing.

35. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses and of any parties to the suit appearing as witnesses shall be taken by the Judge orally in open Court, and in presence of the parties.

Evidence how to be taken;

Any evidence given in a language not understood by any party to a suit shall be interpreted to such party as the examination proceeds.

to be interpreted.

Each party may examine the opposite party and all witnesses.

Parties may examine.

36. The substance of all evidence thus taken shall be reduced to writing by the Judge as the examination proceeds, with his own hand, in English in the Courts of the Commissioner, the Deputy Commissioner and the Assistant Commissioners, and in Burmese in the Courts of the Extra Assistant Commissioners.

Evidence how to be recorded.

37. The Court may at any stage of the proceedings in a suit examine as a witness any person present in Court, or call upon him to produce any document or other thing, or summon any person to give evidence or produce any document or other thing, if it considers that the evidence of such person or the production of such document or thing is likely to aid it in the decision of the matters in dispute.

Court may of its own motion examine witness or require production of a document.

Of Commissions to take Evidence, make local Enquiries and examine Accounts.

38. If in any case—

Issue of commissions—when witness is unable to attend;

(*a*) the evidence of a witness is required who is resident at some place far distant from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is exempted under section 55 or section 56 from personal appearance in Court, or,

when local investigation is necessary;

when accounts are to be examined.

(*b*) a local investigation seems requisite for elucidating any matter in dispute, or,

(*c*) an examination of any accounts becomes necessary,

the Court may, if it thinks fit, issue a commission to any person delegating to him such powers and containing such instructions as it thinks necessary for the examination of such witness, or the making of such local investigation or the examination of such accounts; and such commission and the return thereto, and the depositions of any witnesses who may have been examined under such commission, and any documents filed before the Commissioner, shall form part of the record.

Of Judgment.

Delivery of judgment.

39. When the documentary evidence (if any) has been perused, the witnesses examined and the parties heard, the Court shall, either immediately or on some subsequent day, of which due notice shall be given to the parties, deliver its judgment.

Judgment how to be written.

40. The judgment shall be written by the Judge with his own hand, in English in the Courts of the Commissioner, the Deputy Commissioner and the Assistant Commissioners, and in Burmese in the Courts of the Extra Assistant Commissioners, and it shall be dated and signed by the Judge at the time it is delivered.

When to be translated.

When the judgment is written in English, it shall be translated into Burmese, and the translation shall be signed by the Judge at the time of delivering judgment.

Judgment what to contain. Decree.

41. The judgment shall contain the decision of the Court upon each issue; together with the grounds of such decision, and shall conclude with a decree clearly stating the relief granted or other determination of the suit:

Provided that, when the decision upon any one or more issues is sufficient for the disposal of the suit, it shall be in the discretion of the Court to abstain from pronouncing any decision upon the remaining issues.

Costs to be specified in decree.

42. The decree shall specify the costs payable and the parties by whom they are to be paid.

No allowance for remuneration of agent. Costs of serving process how calculated.

In determining the amount of costs no allowance shall be made for the remuneration of agents employed in the suit, and the costs of serving any process shall be calculated according to the actual rate of pay of the person employed to serve such process for the time during which he was occupied in serving it.

Interest may be allowed to date of

43. When the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest at such rate as it thinks fit to be paid on the

principal sum adjudged from the date of suit to the date of decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum so adjudged and on the costs of the suit, from the date of the decree to the date of payment.

decree, and from date of decree to date of payment.

44. In all decrees for the payment of money the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

Court may order payment by instalments.

45. When the suit is for moveable property, if the decree be for the delivery of such property, it shall further fix an amount of money to be paid as an alternative if delivery cannot be enforced.

Decree for delivery of moveable property to fix a sum payable as alternative.

46. Certified copies of the judgment, and, in cases where the judgment is required to be translated, of the translation thereof, shall be furnished to the parties on application and payment by them of the expenses of preparing such copies.

Copies of judgment to be furnished to parties.

Of special Courses of Procedure to be followed in certain Cases.

47. If the Court at any stage of the proceedings before judgment, is satisfied upon such enquiry as it may consider necessary that the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any judgment that may be passed against him, is about to leave the jurisdiction of the Court or to dispose of any property or remove any moveable property from the jurisdiction of the Court, it may issue its warrant for the apprehension of the defendant or the attachment of his property, or both, and may, unless the defendant gives security for the satisfaction of any judgment that may be pronounced against him, detain him in custody and his property under attachment until judgment is pronounced.

Arrest and attachment before judgment when defendant seeks to evade proceedings.

48. If the Court at any stage of the proceedings before judgment, is satisfied, upon such enquiry as it may deem necessary, that the defendant is about to leave British India, with intent to remain absent so long that the plaintiff will or may be thereby obstructed or delayed in the execution of any judgment that may be passed, it may call upon the defendant to furnish security for the satisfaction of any judgment that may be pronounced against him; and unless he furnishes such security may commit him to custody until judgment is pronounced.

Security may be required from defendant about to leave British India.

49. If the Court at any stage of the proceedings before judgment, is satisfied, upon such enquiry as it may deem necessary, that any property which is in dispute in the suit is in danger of being wasted, damaged or alienated by any party to the suit, it may issue an injunction to such party commanding

Injunction against waste, damage or alienation of property in dispute.

him to refrain from doing the particular act complained of, or give such orders for the purpose of staying and preventing him from wasting, damaging or alienating the property, or for the care and custody thereof, as it deems fit.

Injunction against breach of contract or committal of injury.

50. In any suit for restraining the defendant from the committal of any breach of contract or other injury, the Court may at any time after the commencement of the suit, whether before or after judgment, and on such terms as it deems fit, issue an injunction restraining the defendant from the repetition or continuance of the breach of contract or wrongful act complained of, or the committal of any similar breach of contract or injury; and in case of disobedience such injunction may be enforced by imprisoning the defendant in the civil jail until he obeys the injunction.

Power to vary or set aside orders made under preceding sections, and to adjudge compensation.

51. The Court may at any time vary or set aside any order made by it under any one of the four last preceding sections; and, if it is satisfied that any such order has been applied for and procured by any party on grounds known to such party to be insufficient, it may award against such party in its decree such amount, not exceeding two hundred rupees, as it may deem a reasonable compensation to the party aggrieved by such order.

Subsistence-money for defendant imprisoned.

52. When a defendant is committed to custody under section 47, 48 or 50, the plaintiff shall be required to advance money for the subsistence of such defendant as provided by section 62 in the case of a judgment-debtor committed to prison.

Power to add parties.

53. If at any hearing of a suit it appears to the Court desirable that any person not already a party to such suit should be made a party thereto, it may direct that such person shall be made a plaintiff or defendant, as the case may be.

In such case the Court shall issue a notice to such person in the manner provided for the service of a summons on a defendant.

Certain suits to be tried with the aid of assessors.

54. All suits involving any of the questions mentioned in section [4][1] shall be heard with the aid of assessors selected by the Court from the class to which the parties belong.

Miscellaneous.

Certain women exempted from appearing in person.

55. Women who, according to the custom and manners of the class to which they belong, ought not to be compelled to appear in public shall be exempt from personal appearance in Court, whether as parties or witnesses.

Chief Commissioner may grant

56. The Chief Commissioner[2] may, at his discretion, exempt from persona appearance in Court, whether as a party or as a witness, any person whose

[1] The figure "4" was substituted for the original figure "3", by the Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892 (II of 1892), printed, *infra*, p. 372.
[2] Read now "Lieutenant-Governor," *see* second note on p. 292, *supra*.

rank appears to entitle him to such exemption, and may withdraw the privilege so accorded. exemption from appearing in person.

57. Summonses and all other process of the Court shall be issued without requiring any previous payment of fees, the cost of service or execution being recovered eventually from the party declared liable under section 42 to pay the same, by attachment and sale of his moveable property and imprisonment of his person as if a decree for the amount had been passed against him in favour of the Deputy Commissioner. Process to be issued without requiring prepayment of fees.

58. All documents other than entries in books admitted as evidence in a suit shall be filed with the record and shall not be returned to the parties without the express permission of the Court. A duly authenticated copy of any document so returned shall be filed with the record. Documents admitted in evidence or copies thereof to be filed.

When any party desires to put in evidence an entry in a shop-book or other book, he shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the entry for the purpose of identification, and, having examined and compared the copy with it shall file such copy with the record, and shall, unless it sees reason to impound it, return the book to the party producing the same.

59. Except as otherwise specially provided, the Courts in hearing appeals and executing decrees, and in all miscellaneous civil proceedings, may exercise all the powers conferred on them in respect of original suits, and shall follow the procedure prescribed for such suits in so far as the same may be found applicable. Courts may exercise the powers conferred in respect of original suits, and shall follow the procedure prescribed for such suits.

Of the Execution of Decrees.

60. The Court shall, upon the application of the decree-holder made verbally or in writing execute its decrees in the following manner, that is to say:— Execution of decrees—

(*a*) a decree for any property in the possession of the judgment-debtor, by giving possession of such property to the decree-holder; for property;

or, when the property is moveable and possession of it cannot from any cause be given, levying in the manner next hereinafter provided the amount fixed as an alternative under section 45;

(*b*) a decree for partition, by dividing the property and giving the decree-holder possession of his portion; for partition;

(*c*) a decree for money, by arrest and imprisonment of the judgment-debtor; for money;

or by attaching his moveable property and selling it by auction, or by both;

for the performance of an act by the judgment-debtor.

(*d*) a decree for the performance of any act by the judgment-debtor, by arrest and imprisonment of the judgment-debtor or by attaching his moveable property and retaining it under attachment, or by both ;

Limit to period of imprisonment.

But, except as hereinafter provided, no person shall be imprisoned in execution of a decree for money for a longer period than three months, or after he has satisfied the Court that he has done his best to discharge the debt, and that he has no property remaining against which execution can be had.

Imprisonment of judgment-debtor attempting to evade execution.

61. If it appears in the course of the execution of any decree for money that the judgment-debtor had before the passing of such decree, or has since, concealed any property, or his interest therein, or fraudulently transferred or removed any property, or committed any other act of bad faith with a view to obstructing or delaying execution, the imprisonment in execution of such decree may extend to six months, and the judgment-debtor shall not be released on the ground of his inability to satisfy the decree.

Subsistence-money for judgment-debtor imprisoned to be paid by decree-holder.

62. When a judgment-debtor is committed to prison, the Court shall from time to time fix whatever monthly allowance it deems sufficient for his subsistence, not being less than one anna or more than four annas per day, and such allowance shall be paid by the decree-holder in advance on the first day of each month, beginning with the day on which the judgment-debtor is committed to prison.

If the plaintiff omit to pay the allowance, the judgment-debtor shall be released.

Recovery of subsistence-money and other costs of execution.

63. The amount of subsistence-allowance advanced by a decree-holder and all other costs of execution shall be added to the amount of the decree and recovered therewith.

Decree against sureties.

64. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Execution of *ex parte* decrees.

65. When an application is made for the execution of an *ex parte* decree, the Court may in its discretion before ordering execution, require the applicant to give security for compensation for any injury that may be done in the course of such execution, or may issue a notice to the judgment-debtor to show cause why the decree should not be executed.

Execution of a decree out of the jurisdiction of the Court.

66. If a decree cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, such Court may transmit to any other Court a copy of the decree, together with a certificate that satisfaction of such decree has not been obtained by execution and a copy of any order for execu-

tion of such decree that may have been passed, and may request the Court to which such copies and certificate are transmitted to execute the decree as if it were a decree made by itself.

Execution of a decree of a Court beyond the limits of the district

On receiving similar copies and a similar certificate and requisition from any Civil Court within any part of British India beyond the limits of the district, or established by the authority of the Governor General in Council in the territories of any foreign Prince or State,[1] for the execution of a decree made by such Court, the Deputy Commissioner or any of the officers hereinbefore mentioned, to whom he may transfer the matter for disposal, may execute such decree as if it had been made by himself.

Of Appeals and Reviews.

Appeal how made.

67. Appeals shall be made in the form of a memorandum accompanied by a copy of the decision appealed against, and shall be presented within six weeks from the date of such decision. The period of six weeks shall be reckoned from and exclusive of the day on which the decision was pronounced and also exclusive of such time as may be requisite for obtaining a copy of such decision

Within what period to be presented.

Where to be presented.

An appeal may be presented either to the Appellate Court or to the Court from whose decision it is made for transmission to the Appellate Court.

The appellant to be heard.

68. The Appellate Court on receiving the memorandum of appeal shall fix a time and place for hearing the appellant, and shall notify the same to the appellant.

Appeal presented after expiry of period allowed to be dismissed.

69. If the appeal has been presented after the expiration of the period allowed by section 67, and the appellant is unable to show any sufficient cause for the delay, the Appellate Court shall dismiss the appeal.

When no grounds are shown, the appeal may be summarily dismissed.

70. If after hearing the appellant, and, if it deems it necessary to do so, referring to the proceedings of the lower Court, the Court is of opinion that there is no substantial ground of appeal, it shall dismiss the appeal.

Issue of summons to respondent. Hearing of appeal. Judgment.

71. If the appeal is not dismissed under either of the two last preceding sections, the Court shall summon the respondent to appear and answer on a certain day and at a certain place, and, after hearing both parties on the day so fixed or on some subsequent day to which the proceedings may be adjourned shall pronounce its judgment.

Staying execution of decision under appeal.

72. The Appellate Court may, on an appeal being preferred and sufficient cause shown, issue an order to stay the execution of the decision under appeal; but before issuing any such order it shall in all cases require security to be given for the due performance of the decree or order it may ultimately make.

[1] For list of such Courts, see the Western India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1895, pp. 372 & 373.

Power to take additional evidence on appeal.

73. The Appellate Court may in its discretion itself take additional evidence in any case or may remand the case to the Court whose decision is appealed against or to any other Court with a view to further enquiry being made or additional evidence taken by such Court.

Power to remand the case.

Whenever a case is thus remanded the order of remand shall be written by the Appellate Judge with his own hand, and shall contain a detailed statement of the grounds on which it is made and of the particular points in which further enquiry is directed or additional evidence required.

Execution of decrees and orders of Appellate Courts.

74. Every decree or order of an Appellate Court shall be transmitted to the Court of first instance, and shall be executed by such Court as if it were its own.

Commissioner's power of review.

75. The Commissioner may for any sufficient reason review any decree or order passed by himself and from which no appeal has been preferred to Her Majesty in Council.

When other Courts may review.

No Court below that of the Commissioner shall review any decree or order made by it except for the purpose of correcting a clerical error or other error, manifestly the result of an oversight, without previously obtaining the permission of the Court to which an appeal would lie from such decree or order.

Power to call up appeals pending before Commissioner.

76. The Judicial Commissioner of British Burma [1] may call up any appeal pending in the Court of the Commissioner, and proceed to try the case as if it were an appeal instituted in his own Court.

The Judicial Commissioner shall send to the Court of the Commissioner a copy of his judgment in any case tried under this section, and the said Court shall dispose of the case in conformity with such judgment.

Of Pending Cases.

Pending cases how disposed of.

77. All cases pending in the Hill District of Arakan at the time of the passing of this Regulation shall be disposed of by such of the Courts hereinbefore mentioned as the Chief Commissioner[2] may direct, and shall be dealt with as nearly as may be in accordance with the provisions of this Regulation ;

But if in any such case it appears to the Court that the application of any provision herein contained would deprive any party of any right which but for the passing of this Regulation, would have belonged to him, the Court may proceed according to the law in force before the passing of this Regulation.

[1] Read now "Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), printed *supra*, p. 262.

[2] Read now "Lieutenant-Governor," *see* the second note to the Preamble, *supra*, p. 292.

Of Rules of Practice.

78. The Commissioner may, from time to time, with the previous sanction of the Chief Commissioner[1] of British Burma,[2] make general rules consistent with this Regulation for regulating the practice and proceedings of his own Court and the Civil Courts subordinate thereto. Power to make rules of practice.

REGULATION No. IX OF 1874.

Published in the Gazette of India of 20th February, 1875, p. 83, and in the Burma Gazette of 6th March, 1875, p. 249.

WHEREAS by a Resolution passed by the Secretary of State in Council on the fifth day of October, 1871, the provisions of the thirty-third of Victoria, chapter three, section one, were declared applicable to the Hill District of Arakan; Preamble.

and whereas the Chief Commissioner[1] of British Burma[2] has proposed to the Governor General in Council a draft of the following Regulation together with the reasons for proposing the same;

and whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India and will be published in the local Gazette, and will thereupon have the force of law.[3]

Preliminary.

1. This Regulation may be called the Arakan Hill District Laws Regulation, 1874; Short title.

And it shall extend to the tract of country known as the Hill District of Arakan. Local extent.

2. Except as hereinafter provided, all Regulations of the Bengal Code and all Acts of the Governor General in Council, in so far as they apply to the said district, are repealed. Repeal of enactments.

But not so as to revive any enactment repealed, or to affect anything done

[1] Read now "Lieutenant-Governor," *see* Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261. All powers conferred or duties imposed upon the Chief Commissioner, shall on and with effect from 1st May, 1897, be deemed to be and to have been conferred or imposed upon the Lieutenant-Governor of Burma. *See* Burma Laws Act, 1898 (XIII of 1898), s. 15, printed, *supra*, p. 265.

[2] Read now "Lower Burma," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898).

[3] Reg. IX. of 1874 came into force on the 6th March, 1875.

or any offence committed, or any fine or penalty incurred or any proceedings commenced, before the passing of this Regulation.

Acts and Regulations in force.

Acts and Regulations in force.

3. The Acts and Regulations mentioned in the schedule hereto annexed shall be held to extend to the said district to the extent and subject to the modifications indicated respectively in the third and fourth columns of the same schedule.

Functions of High Court to be discharged by Commissioner.

4. * * * * * *[1] The functions of the High Court in all civil and miscellaneous matters shall be discharged by the Commissioner.

Operation of Act XI, 1878.

5.[2] [Notwithstanding anything in the Indian Arms Act, 1878,[3] or in any rule under that Act, no license to manufacture, or deal in, arms or ammunition shall be granted without the express sanction of the Local Government.] XI of 1878.

6-9. [*Spirituous Liquors and Intoxicating Drugs.*] *Repd. by Act XI of 1889, s. 2 (1).*

Assessment and Collection of Revenue.

Assessment of measured lands.

10. Measured land in the plains shall be assessed at rates varying from eight annas to one rupee an acre at the discretion of the Deputy Commissioner subject to appeal to the Commissioner; but no assessment on such land once made shall be altered without the sanction of the Commissioner.

Rate on toungyas.

11. Every toungya shall be taxed at the rate of one rupee for each family of the cultivators.

Levy of tribute.

12. Tribute at the rate of one rupee per family shall be levied—

(*a*) from all tribes and villages which have hitherto paid tribute;

(*b*) from all tribes and villages which have hitherto paid the capitation-tax.

Abolition of capitation-tax.

The capitation-tax is hereby abolished.

Power to alter rates of taxation.

13. The Chief Commissioner[4] may, from time to time, by notification in the British Burma Gazette,[5] alter the rates of any of the taxes mentioned in the three last preceding sections.

Exemption of certain villages and tribes from taxation.

14. Nothing contained in any of the said sections shall authorize the imposition of any of the said taxes in any village or upon the members of any tribe which has hitherto been treated as exempt from all taxation.

[1] The first and second paras. of s. 4 were repealed by Act XI of 1889, s. 2 (*1*), *supra*, p. 196.

[2] This section was substituted for the pre-existing s. 5, by the Burma Laws Act, 1898 (XIII of 1898), *see* Third Schedule, *supra*, p. 278.

[3] Printed, General Acts, Vol. III, p. 243.

[4] Read now "Lieutenant-Governor," *see* note 2 to the Preamble to this Regulation, *supra*, p. 307.

[5] Read now "Burma Gazette," *see* s. 7 of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 262.

Miscellaneous.

Boatmen to declare contents of boats.

15. Boatmen proceeding up the river Kuladan shall declare the contents of their boats at [Kuladan][1] to such official there as the Deputy Commissioner may, from time to time, by a written order affixed to the jetty and walls of the Court-house at that station, direct.

Power to search and seize spirits, etc., unprotected by pass.

16. The official thus appointed may search any boat proceeding up the said river whenever he sees reasonable grounds for doing so, and may seize all spirit manufactured out of the district, opium, ganja, ammunition and arms not protected by a pass from the Deputy Commissioner which he may find therein.

Any articles so seized may be confiscated by order of the Deputy Commissioner or of an Assistant or Extra Assistant Commissioner.

The order passed in every such case and the grounds thereof shall be recorded by the officer passing it.

Penalty for carrying prohibited articles.

17. The head boatman of every boat in which any of the articles mentioned in the last preceding section is carried without a pass shall be liable to a fine not exceeding one hundred rupees, or, in default of payment, to fifteen days' simple imprisonment.

Recovery of fines.

XLV of 1860.

18. The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code,[2] and of section 307 of the Code of Criminal Procedure,[3] shall apply to all fines imposed under this Regulation.

THE SCHEDULE ABOVE REFERRED TO.

(See section 3.)

I.—Acts.[4]

No. and year.	Subject.	Extent of application.	Modifications.
IV of 1837	Power to hold land	The whole Act.	
XXXII of 1839	Interest . .	Ditto.	

[1] The word "Kuladan" was substituted for the original word "Myouktoung," by the Arakan Hill District Laws Amendment Regulation, 1893 (VIII of 1893), printed, *infra*, p. 378.

[2] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

[3] *See* now ss. 386 to 389 of the Code of Criminal Procedure, 1898 (Act V of 1898). General Acts, Vol. VI, p. 380.

[4] The references to the following Acts have been omitted from this Schedule as they were respectively repealed as follows :—

Act XVIII of 1841—by Act XI of 1878, s. 3.

Acts III of 1846, XXXIII of 1852, XV of 1859, VIII of 1860, XXVII of 1860, III of 1871, IX of 1871, XI of 1872 and VII of 1874, } by Act XI of 1889, s. 2 (*1*), printed, *supra*, p. 196.

Acts VII of 1865 and VII of 1869—by Act XIX of 1881, s. 2, printed, *supra*, p. 103.

Acts II of 1869, X of 1872 and XI of 1874—by Act X of 1882, s. 2.

Acts XL of 1858, IX of 1861 and XIII of 1874—by Act VIII of 1890, General Acts, Vol. V, p. 384.

Act XXVI of 1870—by Act IX of 1894, General Acts, Vol. VI, p. 159.

THE SCHEDULE—*continued.*

I.—Acts—continued.

No. and year.	Subject.	Extent of application.	Modifications.
XIX of 1841	Curators . .	The whole Act, except sections 16 and 20.	*For* "Judge of the Court of the District" and "Judge" *read* "Deputy Commissioner"; *for* "Sudder Dewany Adawlut" *read* "Judicial Commissioner"; and *for* "Collector" *read* "Deputy Commissioner."
V of 1843	Slavery . .	The whole Act.	
XVIII of 1850	Protection of Judicial Officers .	Ditto.	
XIX of 1850	Apprentices . .	Ditto.	
XXI of 1850	Non-forfeiture of rights by loss of caste.	Ditto.	*For* "territories subject to the Government of the East India Company" and "the said territories" *read* "British India"; and *for* "Courts of the East India Company" *read* "Courts of British India."
XXXIV of 1850	State-prisoners .	The whole Act.	
XXXVII of 1850	Inquiries into behaviour of Public Servants.	Sections 2 to 22 (both inclusive) and section 25.	* * *[1]
VIII of 1851	Tolls on roads and bridges.	The whole Act.	
XXX of 1852	Naturalization of aliens.	Ditto.	
II of 1853	Burdens on land .	Ditto.	
XIII of 1855	Compensation for death caused by actionable wrong.	Ditto.	

[1] The modifications with which the Act was applied to the Arakan Hill Districts were repealed, by the Burma Laws Act, 1898 (XIII of 1898), the Third Schedule, printed, *supra*, p. 278.

THE SCHEDULE—*continued.*

I.—Acts—continued.

No. and year.	Subject.	Extent of application.	Modifications.
XXXIV of 1855	Enforcement of judgments of Charter Courts.	The whole Act.	
XV of 1856	Re-marriage of Hindu Widows.	Ditto.	
II of 1857[1]	State-offences .	Ditto.	
III of 1858	State-prisoners .	Sections 2 and 5.	
XXXV of 1858	Lunatics . .	The whole Act except section 1.	*For* "Supreme" *read* "High."
XXXVI of 1858	Lunatic Asylums	The whole Act.	
XLV of 1860	Penal Code . .	Ditto.	
V of 1861	Police . .	The whole Act, except section 11.	
XXIII of 1863	Claims to waste-lands.	The whole Act.	
III of 1864	Foreigners . .	Ditto.	
III of 1865	Carriers . .	Ditto.	In sections 6 and 7, *for* "Act XXII of 1863 (*to provide for taking land for works of public utility to be constructed by private persons or companies, and for regulating the construction and use of works on land so taken*)" *read* "The Land Acquisition Act, 1870."[2]
X of 1865	Succession . .	The whole Act (except sections 329, 330 and the schedule), but not so as to affect Native Christians.	
XXI of 1865	Intestate Succession to Pársís.	The whole Act.	
[3]* * *	* * *	* * *	

[1] *Sic.*, read XI of 1857.
[2] Read now the Land Acquisition Act, 1894 (I of 1894). General Acts, Vol. VI, p. 100.
[3] The entry relating to Act XIV of 1866, has been omitted as the Act is repealed by the Indian Post Office Act, 1898 (VI of 1898). General Acts, Vol. VI, p. 683.

THE SCHEDULE—*continued.*

I.—*Acts*—continued.

No. and year.	Subject.	Extent of application.	Modifications.
XXI of 1866	Dissolution of Marriages of Converts.	The whole Act, except so much of section 7 as relates to a stamp.	
[1]* * *	* * *	* * *	
[2]XXXII of 1867.	Chief Commissioner's Powers.	Ditto.	
[3]* * *	* * *	* * *	
IV of 1869	Divorce . .	The whole Act, except so much of sections 47 and 49 as relates to stamps.	
V of 1869	[4]Native Articles of War.	The whole Act, except the first three clauses of Part I, para. (*c*).	
XV of 1869	Prisoners' Testimony.	The whole Act.	
[5]* * *	* * *	* * *	
[6]* * *	* * *	* * *	
XXIII of 1870	Coinage . .	The whole Act, except section 2 and the schedule.	
XXVII of 1870	Penal Code Amendment.	The whole Act.	
I of 1871	Cattle-trespass .	Ditto.	
V of 1871	Prisoners . .	The whole Act, except sections 2 to 15 (both inclusive) and the schedule.	

[1] The entry relating to Act III of 1867 has been omitted as that Act is repealed by the Burma Gambling Act, 1899 (Burma Act I of 1899).

[2] This Act is now obsolete.

[3] The entry relating to Act I of 1868 has been omitted as that Act has been repealed by the General Clauses Act, 1897 (X of 1897), General Acts, Vol. VI, p. 316.

[4] *Sic.* read Indian.

[5] The reference to the Female Infanticide Prevention Act, 1870 (VIII of 1870), was repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *supra*, p. 286.

[6] The entry relating to Act X of 1870 has been repealed by the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. VI, p. 100.

THE SCHEDULE—*continued.*

I.—Acts—concluded.

No. and year.	Subject.	Extent of application.	Modifications.
XXIII of 1871	Pensions .	The whole Act, except sections 1 and 2 and the schedule.	
I of 1872	Evidence . .	The whole Act, as amended by Act XVIII of 1872.	
IX of 1872	Contract . .	The whole Act.	
XV of 1872	Christian Marriage .	Ditto.	
XVIII of 1872	Evidence Act Amendment.	The whole Act, except section 12.	
XIX of 1872	Definition of "Coin"	The whole Act.	
V of 1873	Government Savings Banks.	Ditto.	
X of 1873	Oaths . . .	The whole Act, except section 2 and the schedule.	
II of 1874	Administrator General's Act.	The whole Act.	
III of 1874	Married women's property.	Ditto.	
IV of 1874	Foreign Recruiting	Ditto.	
IX of 1874	European Vagrancy	Ditto.	
XIV of 1874 [1]	Scheduled Districts	The whole Act, except section 10.	
XV of 1874 [1]	Laws Local Extent	The whole Act, except sections 4, 5, 6 and 7.	
V of 1875 [1]	Unattested Sepoys .	The whole Act.	
VII of 1875 [1]	Burma Fisheries .	Ditto.	
IX of 1875 [1]	Majority . .	Ditto.	
I of 1897 [1]	Amending Act XXXVII of 1850.	Ditto.	

[1] These enactments have been added to the Schedule, by the Burma Laws Act, 1898 (XIII of 1898), *see* Third Schedule, printed, *supra*, p. 278.

SCHEDULE—*concluded.*

II.—Bengal Regulations.

No. and year.	Subject.	Extent of application.	Modifications.
* * *	* * *	* * *[1]	
* * *	* * *	* * *[1]	
III of 1818	State Prisoners .	The whole Regulation.	

REGULATION No. V OF 1876.

A Regulation to amend the Arakan Hills Civil Justice Regulation, 1874.

Published in the Gazette of India of 19th August, 1876, p. 437, and in the Burma Gazette of 9th September, 1876, p. 179.

Preamble. WHEREAS doubts have been raised as to the jurisdiction of the Deputy Commissioner of the Hill District of Arakan to try civil suits originally instituted in his own Court: For the purpose of precluding such doubts, it is hereby enacted as follows:—

Short title. 1. This Regulation may be called the Arakan Hills Civil Justice Amendment Regulation, 1876:

This Regulation to be read with the Arakan Hills Civil Justice Regulation, 1874. And it shall be read with, and taken as part of, the Arakan Hills Civil Justice Regulation, 1874,[2] VIII of 1874.

Original civil jurisdiction of Deputy Commissioner of Hill District of Arakan. 2. The Deputy Commissioner of the Hill District of Arakan shall have, and shall be deemed from the sixth day of March, 1875 (being the date on which the said Arakan Hills Civil Justice Regulation, 1874,[2] came into force) to have had, jurisdiction to entertain and try all civil suits originally instituted in his own Court. VIII of 1874.

[1] The references to Regulations X of 1804 and XI of 1812 were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *supra*, p. 286.

[2] Printed, *supra*, p. 292.

THE UPPER BURMA MUNICIPAL RGEULATION, 1887.

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REGULATION No. V OF 1887.[1]

A Regulation to provide for the constitution of Municipal Committees in Upper Burma.[1]

Received the Governor General's assent on the 30th June, 1887; published in the Gazette of India of the 2nd July, 1887; and in the Burma Gazette of the 16th idem.

WHEREAS it is expedient to provide for the constitution of municipal committees in towns in Upper Burma, and for police, conservancy, improvements and education in those towns, and for the levying of taxes therein; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Title and commencement.

1. (*1*) This Regulation may be called the Upper Burma Municipal Regusation, 1887; and

(*2*) It shall come into force at once.

Definition.

2. In this Regulation, "committee" means a committee constituted under this Regulation.

Application of Regulation.

3. (*1*) The Local Government may, by notification in the official Gazette apply this Regulation, or any of its provisions, to any town in any part of Upper Burma * * * * * *[2] and may vary or cancel the notification.[3]

(*2*) For the purposes of this section the Local Government may, by notification in the official Gazette, declare any place to be a town, and define the limits of any town.

[1] As to the supersession of this Regulation, *see* the Burma Municipal Act, 1898 (Burma Act III of 1898), s. 15, printed, *infra*, p. 485. This Regulation ceases to apply to any municipality in Upper Burma when the Local Government declares Burma Act III of 1898 to apply to it under its s. 5 (*2*).

[2] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* Fifth Schedule, printed, *supra*, p. 286.

[3] This Regulation has been applied under s. 3 (*1*) to the following towns :—

Mandalay . . .	*See* Burma Gazette	. 30th July, 1887, Pt. I, p. 313; but the Act now in force in Mandalay is the Burma Municipal Act, 1898 (Burma Act III of 1898), *see* s. 5 (*1*), *infra*, p. 487.
Taungdwingyi, Myingyan and Yetagyo.	Ditto	. 19th November, 1887, Pt. I, pp. 448 and 449.
Pagan and Pakôkku .	Ditto . .	. 24th December, 1887, Pt. I, p. 499.
Salin	Ditto . .	. 14th January, 1888, Pt. I, p. 17.
Shwebo . . .	Ditto . .	. 4th February, 1888, Pt. I, p. 41.
Kyauksé . . .	Ditto . .	. 18th February, 1888, Pt. I, p. 79.
Pyinmana and Sagaing .	Ditto . .	. 7th April, 1888, Pt. I, pp. 145 and 146.
Bhamo, Myinmu and Mongwa.	Ditto . .	. 28th April, 1888, Pt. I, pp. 172 and 173.
Yamèthin . . .	Ditto . .	. 2nd June, 1888, Pt. I, p. 234.
Minbu . . .	Ditto . .	. 18th August, 1888, Pt. I, p. 384.

See also list of Municipalities and Cantonments set out in Appendix B to the Burma Laws List, Ed. 1897.

PART II.

CONSTITUTION, DUTIES AND POWERS OF COMMITTEES.

Constitution of committee.

4. (*1*) In a town to which this Regulation applies there shall be constituted a committee consisting of a president, vice-president and so many other members as the Local Government thinks fit.

(*2*) The president, vice-president and members shall be appointed by the Local Government.

(*3*) The Local Government may remove the president or vice-president or any other member of a committee.

Power to impose taxes.

5. (*1*) Subject to the provisions of this section and to any general rules or special orders which the Governor General in Council may make in this behalf, a committee may impose taxes for the purposes of this Regulation.

(*2*) When a committee proposes to impose a tax, it shall submit its proposal for the approval of the Local Government.

(*3*) If the proposal is approved by the Local Government, the committee shall publish a notice thereof, and in the notice define the persons or property within the town to be taxed, and the amount or rate of the tax to be imposed.

(*4*) Any inhabitant of the town objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the president of the committee, and the committee shall take the objection into consideration.

(*5*) If no objection is submitted within the said period of a fortnight under sub-section (*4*), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the committee may re-submit its proposal to the Local Government, with the objections, if any, which have been submitted as aforesaid.

(*6*) The Local Government, on receiving the proposal under sub-section (*5*), may sanction it as received or with such amendments as it thinks fit, or refuse to sanction it, or return it to the committee for further consideration.

(*7*) When the proposal of the committee has been sanctioned by the Local Government, the committee may direct the imposition of the tax in accordance with the proposal.

Power of Local Government to make rules for assessment and collection of taxes.

6.[1] The Local Government may make rules—

(*a*) as to the person by whom, and the manner in which, the assessment of any tax under this Regulation is to be confirmed; and

(*b*) for the collection of the tax;

and the tax shall not be collected until the assessment thereof has been

[1] For rules under s. 6 (*a*) & (*b*), *see* Burma Gazette, 1st February, 1889, Pt. I, p. 62

confirmed by the person and in the manner for the time being prescribed by the rules.

Recovery of taxes.

7. An arrear of any tax imposed under this Regulation may be recovered, on application to a Magistrate, by the distress and sale of any moveable property belonging to the defaulter.

Municipal fund.

8. (*1*) All sums received by the committee of a town to which this Regulation applies, and all fines levied for offences in the town against this Regulation, shall constitute a fund, which shall be called the municipal fund of the town, and shall, together with all property which may become vested in the committee, be under the control of the committee, and be applied by the committee as trustees for the purposes of this Regulation.

(*2*) In places where there is a Government treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury or bank.

(*3*) In places where there is no such treasury or bank, the fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government in each case thinks sufficient.

(*4*) Save as provided by any rules which the Local Government may make in this behalf, a disbursement of the municipal fund or any part thereof shall not be made except under the signature of the president or vice-president and one other member of the committee.

Duties and powers of committee.

9. The committee, so far as the municipal fund at its disposal permits, shall in the first place—

(*a*) make provision out of the fund for a police-establishment;

and shall then—

(*b*) keep the public streets, roads, drains, tanks and water-courses of the town clean and in repair;

and may then—

(*c*) do all acts and things necessary for the construction, repair and maintenance of local public works of general utility;

(*d*) make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education; and

(*e*) generally do all acts and things calculated to promote the health, comfort or interests of the inhabitants of the town.

Provision for police and conservancy.

10. The committee shall set apart out of the municipal fund such sum as the Local Government requires for the purposes specified in clauses (*a*) and (*b*) of the last foregoing section.

Power of committee to make rules as to business and officers.

11. A committee may make rules for regulating—

(*a*) the time and place of its meetings ;

(*b*) the conduct of its business ;

(*c*) the division of duties among the members of the committee ;

(*d*) the duties, salaries, appointment, suspension and removal of the officers and servants of the committee ; and

(*e*) other similar matters.

Power of committee to make rules for other purposes.

12. (*1*) A committee may, with the previous sanction of the Local Government, make rules—

(*a*) for declaring what acts or omissions within the limits of the town are to be deemed to be public nuisances ;

(*b*) for defining the cases, manner and times in and at which the officers of the committee may enter upon private property for the detection and abatement of nuisances ;

(*c*) for controlling the establishment of bázárs in the town ;

(*d*) for regulating the materials used in building or thatching houses and for enforcing precautions necessary for the prevention of fire ;

(*e*) for securing a proper registration of births and deaths ; and

(*f*) for carrying out all or any of the purposes of this Regulation.

(*2*) The committee may, from time to time, with the like sanction, repeal, alter or add to any rules made under this section.

Power of Local Government to make rules for general purposes.

[1]13. (*1*) In addition to any other power to make rules conferred expressly or by implication by this Regulation, the Local Government may make rules—

(*a*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of committees, and as to the authority by which, and the conditions subject to which, such plans and estimates may be sanctioned ;

(*b*) as to the accounts to be kept by committees and as to the audit of those accounts ;

(*c*) as to the preparation of estimates of income and expenditure of committees, and as to the authority by which, and the conditions subject to which, such estimates may be sanctioned ;

[2](*d*) as to the returns, statements and reports to be submitted by committees ; and

(*e*) generally for the guidance of committees and public officers in all matters connected with the carrying out of this Regulation.

[1] For rules under s. 13, *see* Burma Gazettes. 21st January, 1888, Pt. I, p. 27 ; 14th April 1888, Pt. I, p. 154 ; 26th May, 1888, Pt. I, p. 209 ; and 6th October, 1888, Pt. I, p. 448.

[2] For the rule made by the Lieutenant-Governor of Burma under this section as to submission of returns of births and deaths, *see* Notification No. 1, dated 6th January, 1898, Burma Gazette, 1898 (Pt. I, p. 14).

(*2*) The Local Government may repeal, alter or add to any rules made under this section.

Power to enter on private property.

14. The officers of the committee shall have power to enter upon private property, for the detection and abatement of nuisances, when the committee has under section 12, clause (*b*), made rules regulating the exercise of that power.

Power of Local Government to control committee.

15. The Local Government may, by order, limit any of the powers of any committee, cancel any of the rules or proceedings of any committee, and abolish, remit or reduce any tax which any committee has imposed.

PART III.

LEGAL PROCEEDINGS.

Suits by and against committee.

16. A committee shall sue and be sued in the name of its president.

Contracts of committee.

17. (*1*) Subject to any rules made by the Local Government in this behalf, every contract made on behalf of a committee in respect of any sum or property exceeding twenty rupees in amount or value shall be in writing, and shall be signed by the president or vice-president and at least two other members of the committee.

(*2*) A contract not executed in accordance with the provisions of sub-section (*1*) shall not be binding on the committee on whose behalf it is made.

Liability of members of committee.

18. (*1*) A member of a committee shall not be personally liable for any contract made or expense incurred by or on behalf of the committee, but the funds from time to time in the hands of the committee shall be liable for, and chargeable with, contracts made as required by the last foregoing section.

(*2*) A member of a committee shall be liable for any loss, waste or misapplication of money or other property entrusted to the committee, if the loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him by the committee with the previous sanction of the Commissioner or by the Secretary of State for India in Council.

Bar of suit in absence of notice of cause thereof.

19. (*1*) A suit shall not be brought against a committee or any of its officers or any person acting under its direction, for anything done, or purporting to be done, under this Regulation, until the expiration of one month next after notice in writing has been delivered or left at the office of the committee or at the place of abode of the person, stating the cause of suit and the name and place of abode of the intended plaintiff.

(*2*) Unless the notice of suit is proved, the Court shall find for the defendant.

(*3*) Every suit referred to in sub-section (*1*) shall be commenced within three months next after the accrual of the right to sue, and not afterwards.

(*4*) If a person to whom notice of suit is given under this section tenders, before the suit is brought, sufficient amends to the plaintiff, the suit shall be dismissed.

PART IV.

PENALTIES.

Penalty on member or servant of committee being interested in contracts with committee.

20. A member or servant of a committee shall not be interested, directly or indirectly, in any contract made with the committee ; and if he is so interested he shall thereby become incapable of continuing in office or in employment as a member or servant of the committee, and shall be liable to fine which may extend to five hundred rupees :

Provided that a person, by being a shareholder in, or member of, any incorporated or registered company shall not be disqualified from acting as a member or servant of a committee by reason of any contract entered into between the company and the committee :

Provided also that a shareholder in, or member of, a company shall not act as a member of the committee in any matter relating to any contract entered into between the committee and the company.

Penalty for infringement of rules under section 12.

21. (*1*) If any person infringes any rule made under [section 6 or][1] section 12 or is guilty of any act or omission which under any rule under clause (*a*) of sub-section (*1*) of [section 12][2] is to be deemed to be a public nuisance, he shall be punished with fine which may extend to fifty rupees, and, in the case of a continuing infringement, or of a continuing act or omission, with a further fine which may extend to five rupees for every day after notice of the infringement or of the act or omission has been given to him by the committee.

(*2*) In default of payment of any fine imposed under this section, the defaulter shall be punished with simple imprisonment for a term which may extend to eight days.

Prosecutions.

22. Prosecutions for offences under the last foregoing section may be instituted before any Magistrate by the committee or by any person authorized by the committee in this behalf.

[1] These words were inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278.

[2] These words were substituted for the words "that section," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

REGULATION No. IX OF 1887.[1]

The Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.

Received the Governor General's assent on the 18th August, 1887; published in the Gazette of India of the 20th idem; and in the Burma Gazette of the 3rd September, 1887.

WHEREAS it is expedient that the Local Government and certain of its officers should have authority to prevent persons from passing out of certain parts of Upper Burma into foreign territory or Shan States and from entering or residing or travelling in disturbed parts of Upper Burma; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887.

(*2*) It extends to the whole of Upper Burma; * * *[2] and

(*3*) It shall come into force on such day as the Local Government may appoint in this behalf.[3]

Warning against entering foreign territory, Shan States or disturbed districts.

2. (*1*) A person warned in manner hereinafter provided shall not—

(*a*) pass across the frontier of any of the districts mentioned in sub-section (*2*) into any foreign territory or Shan State; or,

(*b*) while a notification under this clause is in force, pass from any part of the territories to which this Regulation extends into any other part of those territories to which the Local Government has, by notification in the official Gazette, declared this clause to apply; or,

(*c*) while a [4] notification under this clause is in force, reside or travel in any part of those territories to which the Local Government has, by such a notification as aforesaid, applied this clause.

(*2*) The districts referred to in sub-section (*1*), clause (*a*), are the [5][Upper

[1] So much of Reg. IX of 1887, as may from time to time be in force in Upper Burma, is extended to the Kachin Hill Tracts, as regards hill-tribes, by Reg. I of 1895, printed, *infra*, p. 381.
So much of Reg. IX of 1887, as may from time to time be in force in Upper Burma, is to be deemed to apply to the Chin Hills, as regards hill-tribes, by Reg. V of 1896, s. 3, printed, *infra*, p. 410.

[2] The words "except the Shan States" were repealed, by the Burma Laws Act, 1898 (XIII of 1898), the Fifth Schedule, printed, *supra*, p. 286.

[3] Reg. IX of 1887 came into force on the 3rd October, 1887, *see* Burma Gazette, 1887, Pt. I, p 394.

[4] For instances of such notifications, *see* Burma Rules Manual, Ed. 1897, p. 225.

[5] The words "Upper Chindwin" were substituted for the word "Chindwin," and the words "and Yamethin" for the words "Yamethin and Pyinmana," by the Burma Laws Act, 1898 (XIII of 1898), the Third Schedule, printed, *supra*, p. 278.

Chindwin], Bhamo, [Myitkyina],[1] Katha, Ruby Mines, Mandalay, Kyaukse, Meiktila [2][and Yamethin] districts.

Service or publication of warning.

3. Every warning for the purpose of this Regulation shall be in writing and shall,—

(*a*) if addressed to an individual, be signed by the Commissioner of the division or Magistrate of the district within which the individual dwells or may be found, and be served upon him in such manner as the Local Government may by general or special order prescribe[3];

(*b*) if addressed to a class of persons or to the public generally, be published with the previous sanction of the Governor General in Council in the local official Gazette and otherwise in such manner as the Local Government may by general or special order direct.

Consequence of disobedience to warning.

4. (*1*) If any person to whom a warning served or published under the last foregoing section is addressed disobeys or attempts to disobey the warning,—

(*a*) he shall be punished with fine which may extend to five hundred rupees; and

(*b*) the Local Government may order him to remove to such place within the territories to which this Regulation extends as it may direct in this behalf.

(*2*) If any person contravenes any order under sub-section (*1*), clause (*b*), the Commissioner of the division or Magistrate of the district within which the person is dwelling or may be found may cause him to be arrested and detained in custody until he accepts his release upon such conditions as the Local Government thinks fit to impose.

Power to Commissioner or Magistrate to require security for good behaviour in certain cases.

5. (*1*) If the Commissioner of the division or Magistrate of the district within which any person, whether a European British subject or not, is dwelling or may be found, reasonably suspects that the person intends to disobey a warning served on him or published in accordance with section 3, the Commissioner or Magistrate may require such security for his good behaviour for a period not exceeding six months as the Commissioner or Magistrate may deem sufficient.

X of 1882.

(*2*) The provisions of the Code of Criminal Procedure, 1882,[4] sections

[1] The word "Myitkyina" was inserted by the Burma Laws Act, 1898 (XIII of 1898), the Third Schedule.

[2] *See* the fifth footnote on preceding page.

[3] For instance of notification prescribing manner of serving warnings, *see* Burma Rules Manual, Ed. 1897, p. 225.

[4] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI, p. 380.

112 to 126 (both inclusive) and section 514, shall, so far as they can be made applicable, apply to all cases under this section.

REGULATION No. X of 1887.

A Regulation to define, extend and limit the operation of certain enactments in Upper Burma, and for other purposes.

[*Received the Governor General's assent on the 20th August, 1887; published in the Gazette of India of the 27th idem; and in the Burma Gazette of the 10th September, 1887.*]

WHEREAS it is expedient to remove doubts as to the effect of the law in force in Upper Burma with respect to stamps on instruments to which at the time of their execution the law of British India did not apply;

[1] * * * * * *

It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Stamps and Limitation Regulation, 1887.

(*2*) It extends to the whole of Upper Burma[2] * * *: and

(*3*) It shall come into force at once.

Saving in favour of unstamped instruments.

2. The provisions of the Indian Stamp Act, 1879,[3] with respect to the consequences of instruments not being duly stamped shall not apply to any instrument which may have been executed before section 6 of the Upper Burma Laws Act, 1886,[4] came into force and to which the law of British India did not apply at the time of its execution. I of 1879. XX of 1886

[*Sections 3, 4, 5, 6 and 7.*] *Rep. by the Upper Civil Courts Regulation, 1896 (I of 1896).*

[1] The remainder of the preamble was repealed by Regs. I of 1891, s. 10, and I of 1896, s. 2 (*1*) and by the Burma Laws Act, 1898 (XIII of 1898), s. 18 (*1*), printed, *supra*, p. 265. Reg. I of 1891, ss. 1-10, were repealed by Reg. I of 1896, s. (*2*) (*1*).

[2] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *supra*, p. 286.

[3] *See* now the Indian Stamp Act, 1899 (II of 1899).

[4] Rep. by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule.

THE UPPER BURMA RUBY REGULATION, 1887.

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REGULATION No. XII OF 1887.[1]

A Regulation to declare the Law relating to Rubies and other Precious Stones in Upper Burma.

[*Received the Governor General's assent on the 27th May, 1887; published in the Gazette of India of the 16th September, 1887; and in the Burma Gazette of the 1st October, 1887.*]

WHEREAS it is expedient to declare the law relating to rubies and other precious stones in Upper Burma; It is hereby enacted as follows:—

1. (*1*) This Regulation may be called the Upper Burma Ruby Regulation, 1887. Title, extent, commencement and construction.

[1] So much of Reg. XII of 1887, as may from time to time be in force in Upper Burma, is extended to the Kachin Hill Tracts as regards hill-tribes, *see* the Kachin Hill-tribes Regulation, 1895 I of 1895), s. 3, and Schedule, printed, *infra*, pp. 382 and 392.

So much of Reg. XII of 1887 as may from time to time be in force in Upper Burma is to be deemed to be applicable to the Chin Hills as regards hill-tribes, by the Chin Hills Regulation, 1896 (V of 1896), s. 3, printed, *infra*, p. 410.

For notifications and rules under this Regulation, *see* Burma Rules Manual, Ed. 1897, p. 226.

(*2*) It extends to the whole of Upper Burma * * * *[1] and

(*3*) It shall come into force on such date as the Local Government may, by notification in the official Gazette, appoint in this behalf.[2]

(*4*) But nothing therein shall be construed to take away or derogate from any right established to the satisfaction of the Local Government.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "precious stone" or "stone" means ruby, spinel or sapphire, and includes any other stone which the Local Government may, by notification in the official Gazette, declare to be a precious stone for the purposes of this Regulation.[3]

(*2*) "stone-tract" means a tract which the Local Government has, by notification [4] in the official Gazette, declared to be a local area in which precious stones are found :

(*3*) "native" used with reference to a stone-tract, means a person who was born, and during the five years immediately preceding the commencement of this Regulation has habitually resided, in the stone-tract :

(*4*) "transport" means to remove from one place to another within the territory to which this Regulation extends : and

(*5*) "vessel" includes anything made for the conveyance by water of human beings or of property.

Prohibition of digging for, or dealing in, stones except under rules.

3. Except as permitted by rules under this Regulation, no one shall—

(*a*) if he is not a native of a stone-tract, reside therein ;

(*b*) dig for or raise any precious stone in a stone-tract ;

(*c*) cut or dress any precious stone ;

(*d*) possess any precious stone in a stone-tract or, for the purposes of trade, in any place beyond the limits of a stone-tract ;

(*e*) buy or sell, or be otherwise a party to the transfer of, any precious stone ; or

(*f*) transport any precious stone.

Power to make rules.

4. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, make rules [5] consistent with this Regulation to permit on such conditions and in considera-

[1] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898). The Fifth Schedule, *supra*, p. 286.

[2] Reg. XII of 1887 came into force on the 10th October, 1887, *see* Burma Gazette, 1887, Pt. I, p. 389.

[3] For notification declaring a tourmaline to be a precious stone, *see* Burma Gazette, 1890, Pt. I, p. 486.

[4] For instances of such declarations, *see* Burma Laws List, Ed. 1897, Pt. III, (2), p 28.

[5] For rules under s. 4, *see* Burma Laws List, Ed. 1897, Pt. III, (2), p. 28.

tion of such payments, if any, as it thinks fit, and to regulate, all or any of the following matters, namely :—

(*a*) the residence in a stone-tract of persons who are not natives thereof ;

(*b*) the digging for or raising of precious stones in a stone-tract ;

(*c*) the cutting or dressing of precious stones ;

(*d*) the possession of precious stones in a stone-tract or, for the purposes of trade, in any place beyond the limits of a stone-tract ;

(*e*) the purchase or sale of, or other mode of transferring, precious stones ; and

(*f*) the transport of precious stones.

(2) The Local Government, with the previous sanction of the Governor General in Council, may amend, add to or cancel any rule made under this section.

Supplementary provisions respecting rules.

5.[1] (*1*) Rules under the last foregoing section may provide for the following among other matters, namely :—

(*a*) the grant of licenses to do anything permitted by the rules to be done ;

(*b*) the authority by which the licenses may be granted ;

(*c*) the time and manner at and in which applications for the licenses are to be made ;

(*d*) the authority by which the conditions of the licenses, and the payments, if any, to be made therefor, are to be prescribed ;

(*e*) the powers which may be exercised for the purpose of enforcing any provision of this Regulation or the rules or securing the fulfilment of any condition of a license, and the authority by which those powers may be exercised ;

(*f*) the period for which any license is to remain in force ;

(*g*) the authority by which fees may be prescribed for services rendered to licensees and other persons under the rules and the limitation of the amount of those fees ;

(*h*) the authority by which forms may be prescribed for any of the purposes of the rules ;

(*i*) the exemption, absolutely or subject to conditions, of any precious stones from the operation of this Regulation or the rules ; and

[1] For rules made under this section and s. 4, for the Mông Mit Stone tract, *see* Notification No. 409, dated 20th November, 1897, Burma Gazette, 1897, Pt. I, p. 627.

For rule prescribing the form and conditions for an ordinary license to raise precious stones in the Mông Mit Stone tract, *see* Burma Gazette, 1897, Pt. I, p. 628.

For rules made for the Sagyin Hills Stone tract, *see* Burma Gazette, 1898, Pt. I, p. 353.

(*f*) any other matter for which it is, in the opinion of the Local Government, necessary to make rules in the interests of the public or of the public revenue.

(*2*) A license to dig for or raise precious stones in a stone-tract may impose on the holder thereof the condition that he shall, at the option of the authority granting the license, or of some other authority appointed by the Local Government in this behalf or of some person upon whom the right of exercising the option has been conferred by the Local Government by lease or other appropriate instrument under this Regulation, either—

(*a*) sell at his own valuation to that authority or person all or any stones which he or any person permitted by the license to work under him finds or raises, or

(*b*) pay on that valuation to that authority or person such duty in respect of the stones as the Local Government directs.

(*3*) The Local Government may, without the previous sanction of the Governor General in Council, make rules subsidiary to,[1] and not inconsistent with, rules made under the last foregoing section with such previous sanction and may by rules under this sub-section prescribe, among other matters, the time and place, and the mode, at and in which the duty referred to in the last foregoing sub-section is to be paid to the authority or person to whom it is payable.

Offences.

6.[2] (*1*) If any person, in contravention of this Regulation or of any rule duly made thereunder, digs for or raises any precious stone, he shall, on conviction before a Magistrate of the first class, [3][or, in a stone-tract, before a Magistrate of the second class, specially empowered by the Local Government in this behalf] be punished for each such offence with imprisonment for a term which may extend to one year for the first offence, and to two years for any subsequent offence, or with fine, or with both.

(*2*) In either of the following cases, namely :—

(*a*) if any person, in contravention of this Regulation or of any rule duly made thereunder, resides within a stone-tract, or possesses any precious stone in a stone-tract, or for the purposes of trade in any place beyond the limits of a stone-tract, or buys or sells, or is otherwise a party to the transfer of, any precious stone or transports any precious stone, or

[1] For instance of such subsidiary rules, *see* Burma Gazette, 1888, Pt. I, p. 465.

[2] This section was substituted for the original, by the Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891 (V of 1891), printed, *infra*, p. 368.

[3] These words were inserted by the Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897 (I of 1897), printed, *infra*, p. 422.

(*b*) if any licensee fails or refuses to comply with any provision of any rule duly made under this Regulation, or commits a breach of any condition of his license,

he shall, on conviction before a Magistrate of the first class, [1][or in a stone-tract, before a Magistrate of the second class specially empowered by the Local Government in this behalf] be punished for each such offence with imprisonment for a term which may extend to one month for the first offence, and to six months for any subsequent offence, or with fine, or with both.

Presumption in prosecutions.

7. Subject to any rule under this Regulation, it shall be presumed in a prosecution under section 6, until the contrary is proved, that any stone for which the accused person is unable to account satisfactorily is a stone in respect of which he has committed an offence under that section.

Confiscation.

8. (*1*) Any stone in respect of which an offence under section 6 has been committed shall be liable to confiscation.

(*2*) When the offender is convicted, or when the person charged with an offence in respect of any stone is acquitted but the Magistrate decides that the stone is liable to confiscation, the confiscation may be ordered by the Magistrate.

(*3*) When an offence under section 6 has been committed but the offender is not known or cannot be found, the Deputy Commissioner, or other officer authorized by the Local Government in this behalf either by name or by office shall inquire into and determine the case, and may order the confiscation of the stone in respect of which the offence was committed :

Provided that the order shall not be made until one month has expired after the date of the seizing of the stone, nor until an opportunity has been given to the persons, if any, claiming any right to the stone of being heard and of producing evidence in support of their claims.

(*4*) When a stone not in the possession of any person cannot be satisfactorily accounted for, the Deputy Commissioner or other officer may proceed with respect thereto under sub-section (*3*) as if it were a stone to which that sub-section applied.

(*5*) The Magistrate, Deputy Commissioner or other officer may, instead of ordering the confiscation of a stone liable to be confiscated, give the owner of the stone an option to pay, in lieu of confiscation, such sum as the officer thinks fit.

[1] These words were inserted by the Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897 (I of 1897), printed, *infra*, p. 422.

(*Sec. 9.*)

Powers of search, seizure and arrest

9. (*1*) Any officer authorized[1] by the Local Government in this behalf either by name or by office who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any stone liable to confiscation under section 8 is to be found in any building, vessel or enclosed place, may, after sunrise and before sunset,—

(*a*) enter the building, vessel or place ;

(*b*) in case of resistance, break open any door and remove any other obstacle to his entry ;

(*c*) search for and seize the stone ; and

(*d*) detain and search, and if he thinks proper arrest, any person whom he has reason to believe to be guilty of any offence relating to the stone.

(*2*) Any officer authorized by the Deputy Commissioner in this behalf may—

(*a*) search for and seize, in any open place or in transit, any stone which he has reason to believe to be liable to confiscation under section 8 ;

[2](*b*) in a stone-tract, detain and search any person whom he has reason to believe to be guilty of any offence under section 6, and, if necessary, arrest that person and any other person in his company ;

[2](*c*) elsewhere, detain and search any person whom he has reason to believe to be guilty of any offence under section 6, and, if that person has any stone in his possession, arrest him and any other person in his company.

(*3*) The provisions of the Code of Criminal Procedure, 1882,[3] relating to searches under that Code shall, so far as they can in the circumstances for the time being be made applicable, apply to searches under sub-section (*1*) and sub-section (*2*). X of 1882.

(*4*) In either of the following cases, namely :—

(*a*) if an officer authorized to act under sub-section (*1*) enters, without reasonable ground of suspicion, any building, vessel or place, or

(*b*) if an officer authorized to act under sub-section (*1*) or sub-section (*2*) vexatiously and unnecessarily makes any search or detains or arrests any person,

the officer shall for every such offence be punished with fine which may extend to five hundred rupees

[1] For instance of authority thus conferred, *see* Burma Gazette, 1888, Pt. I, p. 3.

[2] These two clauses were substituted for the pre-existing clause (*b*), by the Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897 (I of 1897), printed, *infra*, p. 422.

[3] *See* now Ch. VII, B and D, of the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI, p. 380.

(5) Where an officer is sentenced to a fine for an offence under the last foregoing sub-section, the Court imposing the fine or confirming the sentence may presume, for the purposes of section 545 of the Code of Criminal Procedure, 1882,[1] that injury has been caused by the offence and that substantial compensation is recoverable by civil suit in respect of the injury.

Issue of warrants by Magistrates.

10. (1) A Magistrate may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence under section 6, or for the search, by day or by night, of any building, vessel or place in which he has reason to believe any stone liable to confiscation under section 8 to be kept or concealed.

(2) Warrants issued under this section shall, so far as the circumstances for the time being admit, be executed in accordance with the provisions of the Code of Criminal Procedure, 1882.[2]

Disposal of persons arrested and stones seized.

11. (1) A person arrested or stone seized under section 9 shall be forwarded without delay to the officer in charge of the nearest police-station.

(2) A person arrested or stone seized under section 10 shall be forwarded without delay to the Magistrate by whom the warrant under that section was issued.

(3) The police-officer or Magistrate, as the case may be, to whom a person or stone is forwarded under sub-section (1) or sub-section (2), shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of the person or stone.

Report of arrests and seizures.

12. When an officer makes an arrest or seizure under section 9 or section 10, he shall, within forty-eight hours next after the arrest or seizure, make a full report of all the particulars of the arrest or seizure to his immediate official superior.

Obligation to give information of offences.

13. A police-officer, railway-servant, carrier of goods for hire or person in the employ of such a carrier who is aware of the commission of or of the intention to commit an offence under section 6 shall be legally bound to give immediate information, orally or in writing, of the commission of or intention to commit the offence to a Magistrate, or to a police-officer above the rank of constable.

Power for Government to grant lease.

14. The Local Government may, with the previous sanction of the Governor General in Council, grant by lease or other appropriate instrument, with respect to all or any stone-tracts or to any stone-tract, the right to exercise the option referred to in section 5, sub-section (2).

[1] *See* now Act V of 1898.

[2] *See* Ch. VI B of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Act, Vol. VI, p. 380.

Recovery of arrears of fees, duties and rents.

15. (*1*) Any fee, duty or other money due to the Government under any rule or license made or given under this Regulation, and any money due to the Government from a grantee under the last foregoing section, may be recovered from the person from whom the money is due, or from his surety, if any, as if it were an arrear of revenue.[1]

(*2*) Nothing in sub-section (*1*) shall be construed to affect the right of the Government to proceed by suit, in addition to or in lieu of any process authorized by that sub-section, for the recovery of any such money as is mentioned in the sub-section.

Acquisition of land for assee.

16. If, in the opinion of the Local Government, the acquisition of any land on behalf of a grantee under section 14 is desirable for the purposes of this Regulation, the Local Government may, at the request of the grantee, proceed to acquire the land under the provisions of the [Land Acquisition Act, 1894],[2] and, on payment by the grantee of the compensation awarded under [that Act],[2] and of the charges incurred by the Government in connection with the proceedings, the land shall vest in him, subject to such conditions, if any, as the Local Government may in each case prescribe.

REGULATION No. XIV OF 1887.

A Regulation to provide for the Establishment of a Village-system in Upper Burma.

[*Received the assent of the Governor General on the 28th October, 1887; published in the Gazette of India on the 29th idem; and in the Burma Gazette on the 5th November, 1887.*]

WHEREAS it is expedient to provide for the establishment of a village-system in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Village Regulation, 1887.

(*2*) It extends to the whole of Upper Burma * * * *[3]; and

[1] *See* ss. 41 and 47 of the Upper Burma Land and Revenue Regulation, 1889 (III of 1889), printed, *infra*, p. 344.

[2] The words "Land Acquisition Act, 1894" were substituted for the words "Upper Burma Land Acquisition Regulation, IX of 1886," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule. The words "that Act" were also substituted for the words "that Regulation," by Act XIII of 1898, *see ibid*, printed, *supra*, p. 278.

[3] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *supra*, p. 286.

(*3*) It shall come into force on such day[1] as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Definition.

2. (*1*) For the purposes of this Regulation "village" includes—

(*a*) village-lands, and

(*b*) rivers passing through or by, and lakes adjacent to, those lands.

(*2*) The Deputy Commissioner may determine the limits of a village for the purposes of this Regulation.

Appointment of headmen.

3. (*1*) The Deputy Commissioner shall appoint a headman in every village or group of villages.

(*2*) In appointing a headman, the Deputy Commissioner shall have regard, so far as circumstances admit, to any established custom which may exist respecting the right of nomination or succession or otherwise and to claims based thereon.

(*3*) A headman holding office in any village or group of villages at the commencement of this Regulation under the name of Myothugyi, Shwehmu, Thugyi, Tamon or other name shall be deemed to have been appointed under this section.

(*4*) When in any village or group of villages there are two or more headmen one of whom by custom exercises authority over the other or others, the Deputy Commissioner shall decide which of them shall be the headman for the purposes of this Regulation, and with the previous sanction of the Commissioner may make rules to define and regulate their relations to each other.

X of 1882.

Substitution of new section for section 45 of the Code of Criminal Procedure.

4. For section 45 of the Code of Criminal Procedure, 1882,[2] the following shall be substituted, namely :—

XIV of 1887

Village headman bound to report certain matters.

"45. A headman appointed under the Upper Burma Village Regulation, 1887, shall forthwith communicate to the nearest Magistrate, or to the officer in charge of the nearest police-station or military post, whichever is the nearer, any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his village ;

(*b*) the resort to any place within, or the passage through, his village of any person whom he knows, or reasonably suspects, to be a dacoit, robber, escaped convict or proclaimed offender ;

[1] Reg. XIV of 1887 came into force on the 5th November, 1887, *see* Burma Gazette, 1887, Pt. I, p. 434.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

(*c*) the commission of, or attempt or intention to commit, within his village any of the following offences, namely :—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

(v) offence against the Indian Arms Act, 1878,[1] and XI of 1878.

(vi) any other offence respecting which the Deputy Commissioner by general or special order made with the previous sanction of the Commissioner directs him to communicate information ;

(*d*) the occurrence in his village of any sudden or unnatural death or of any death under suspicious circumstances.

Duties of headman.

"*Explanation.*—In this section 'village' has the meaning assigned to that word in the Upper Burma Village Regulation, 1887.[1]

5. [2][The headman of a village shall be bound to perform the following public duties, namely] :—

(*a*) to investigate every offence respecting which he is required by section 45 of the Code of Criminal Procedure, 1882,[3] to communicate X of 1882. information ;

(*b*) to search for and arrest any person whom he has reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person ;

(*c*) to arrest any person found lurking within the limits of the village who cannot give a satisfactory account of himself ;

(*d*) to forward as soon as may be to the nearest police-station or military post any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence ;

(*e*) to resist any unlawful attack made upon the village ;

(*f*) to take such measures and execute such works for the protection of the village and for keeping open the communications between it and adjacent posts as the Deputy Commissioner may direct ;

[4](*g*) to collect and furnish upon receipt of payment for the same in

[1] Printed, General Acts, Ed. 1898, Vol III, p. 213.

[2] These words were substituted for the words "The headman of a village shall be bound," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra* p. 278.

[3] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Ed. 1898, Vol. VI, p. 380

[4] This clause was substituted for the original clause, by the Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), s. 1, printed, *infra*, p. 407.

advance at such rates as the Deputy Commissioner, with the sanction of the Commissioner, may from time to time fix, guides, supplies of food, carriage and means of transport for any troops or police posted in or near or marching through the village, or for any servant of the Government travelling on duty, and on the written order of the Deputy Commissioner, for any traveller:

Provided that no headman shall be bound to collect supplies beyond the limits of the village of which he is headman, or to furnish carriage or means of transport for more than twelve hours' journey from such village:

Provided also that no headman shall requisition for personal service any resident of such village who is not of the labouring class and accustomed to do such work as may be required.

Explanation.—A servant of the Government proceeding on or returning from authorized leave shall be deemed to be on duty for the purposes of this clause.

(*h*) on the requisition of any Magistrate not below the rank of Myook, to furnish labourers for the making or repair of roads, embankments or other public works;

(*i*) to collect or aid in collecting revenue and other money due to the Government from residents of the village or persons holding land therein;

(*j*) to allot unoccupied land within the village for * * [1] house-building up to such limit and on such conditions as the Deputy Commissioner may direct;

(*k*) if so ordered, and in accordance with such rules as may be made in this behalf by the Commissioner with the sanction of the Local Government, to register all births and deaths which take place within the village, and any other vital statistics which may be prescribed by such rules;

[2](*l*) to take such measures for—

(i) the prevention of public nuisances,

(ii) the cure or prevention of the spreading of any contagious or infectious disease among domestic animals of any kind,

(iii) the prevention and extinction of fires,

(iv) the general sanitation of the village,

[1] The words "cultivation or" were repealed by the Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), printed, *infra*, p. 407.

[2] Clause (*l*) was substituted for the original clause, by the Upper Burma Village Regulation (1887) Amendment Regulation, 1894 (IV of 1894), printed, *infra*, p. 379. For rules under this clause, *see* Burma Laws List, Ed. 1897, Pt. III (2), p. 30.

as may be prescribed in any rules made in this behalf by the Commissioner with the previous sanction of the Local Government;

(*m*) to supply to the best of his ability any local information which any Magistrate or officer of police may require; and

(*n*) generally, to assist all officers of the Government in the execution of their public duties.

Disposal of petty criminal cases by headman.

6. (*1*) If any of the offences mentioned in the next following sub-section is committed in a village, the headman of the village may, on complaint made to him within eight days from the date of the commission of the offence, take cognizance of it and try any person accused thereof.

(*2*) The offences referred to in sub-section (*1*) are the following, namely:—

(*a*) assault,

(*b*) theft when the value of the property stolen does not exceed five rupees,

(*c*) mischief when the mischief causes damage to an amount not exceeding five rupees,

(*d*) criminal trespass, and

(*e*) any other offence which the Local Government may, by notification in the official Gazette, declare to be triable by headmen under sub-section (*1*).

(*3*) If the accused is convicted, he may be sentenced to fine not exceeding five rupees, or if the offence was theft or mischief, twice the value of the property stolen or twice the amount of the damage caused, as the case may be, or to imprisonment in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both.

(*4*) A headman specially empowered by the Local Government in this behalf may, on complaint, try any person accused of theft or mischief when the value of the property stolen or the amount of the damage caused does not exceed fifty rupees, and may, in any case triable by him, sentence the accused, on conviction, to fine not exceeding fifty rupees, or to imprisonment in any place appointed as aforesaid for a term not exceeding fifteen days, or to both.

(*5*) Proceedings under this section shall be held in the presence of the complainant and accused.

(*6*) The offence out of which the proceedings have arisen may be compounded at any time before the headman pronounces his decision.

(*7*) The proceedings need not be reduced to writing, but such record shall be kept of the cases decided as the Deputy Commissioner directs.

(*8*) Any fine imposed for an offence referred to in this section may be awarded as compensation to any person injured by the offence.

(*9*) A fee of one rupee may be levied on a complaint under sub-section (*1*), and of two rupees on a complaint under sub-section (*4*).

(*10*) No other fee shall be leviable in any case under this section.

(*11*) If the accused is convicted, the amount of any fee paid in respect of the complaint shall be recovered from him and repaid to the complainant.

Penalty for neglect of duty or abuse of authority by headman.

7. If a headman neglects to perform any of the [1][public duties] imposed upon him by this Regulation, or abuses any of the powers conferred upon him thereby, he shall be liable, by order of the Deputy Commissioner, to pay a fine not exceeding fifty rupees, or to be suspended from office for a period not exceeding six months, or to be dismissed from office.

Obligation on villagers to aid headman.

8. (*1*) Every person residing in a village shall, on the requisition of the headman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with the requisition of the headman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable, by order of the headman, to fine not exceeding five rupees, or to imprisonment in such place as the Deputy Commissioner may appoint in this behalf for a term not exceeding twenty-four hours, or to both, or, on conviction by a Magistrate, to fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Civil jurisdiction of headman.

[2]**8A.** (*1*) The Local Government may, by notification in the official Gazette, invest any headman with the powers of a Civil Court for the trial of suits between persons of whom both or all, as the case may be, reside within his village or group of villages, and may, by general or special order notified in the official Gazette, specify the classes, and the value not exceeding twenty rupees, of the suits which such headman may try.

(*2*) The Local Government may at any time cancel or vary any such notification or order.

(*3*) In any suit tried in exercise of powers conferred under sub-section (*1*), the decision of the headman shall, subject to revision by such authority as the Local Government may appoint in this behalf,[3] be final.

(*4*) A fee of ten per centum of the value of the suit shall be paid on its institution before a headman, and no other fee shall be paid for the issue of processes or otherwise.

[1] The words "public duties" were substituted for the word "duties," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278.

[2] S. 8A was inserted by the Upper Burma Village Regulation (1887) Amendment Regulation, 1891 (I of 1891), s. 11, printed, *infra*, p. 367.

[3] For notification directing that the decision of a headman in a civil suit shall be subject to revision by the Sub-divisional Officer or Deputy Commissioner, *see* Burma Gazette, 1891, Pt. I, p. 395.

(5) Notwithstanding anything in section 15 of the Code of Civil Procedure[1] or in any like enactment for the time being in force, a person shall not be bound to institute a suit before a headman. XIV of 1882.

Police powers and privileges for village-headmen.

[2]8B. The Local Government may, by notification in the Burma Gazette, confer on headmen any powers or privileges which may be exercised, or are enjoyed, by police-officers under any enactment for the time being in force.

Fine on villagers accessory to crime.

9. (1) The Deputy Commissioner may, with the sanction of the Commissioner, impose fines on all or any residents of a village if after enquiry he has found—

(a) that they have colluded with or harboured or failed to take all reasonable means to prevent the escape of any criminal,

(b) that they have suppressed or combined to suppress evidence in any criminal case;

(c) that, stolen property having been tracked to their village, they have failed or neglected to restore the property or to take on the track beyond the limits of their village.

(2) In either of the following cases, namely:—

(a) when a fine is imposed on the ground stated in clause (a) or in clause (b) of sub-section (1), and the offence of which the criminal is accused or to which the criminal case relates is mischief by fire, dacoity, robbery or cattle theft, or

(b) when a fine is imposed on the ground stated in clause (c) of sub-section (1),

a sum not exceeding the amount of the damage caused or the value of the property stolen may be given out of the fine as compensation to the owner of the damaged or stolen property.

Fines on villagers where homicide is committed or attempted.

10. When within any village a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the residents of the village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(a) had not an opportunity of preventing the offence or arresting the offender, or

(b) have used all reasonable means to bring the offender to justice.

[1] Printed, General Acts, Vol. IV, p. 262.

[2] S. 8B was inserted by the Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), s 2, printed, *infra*, p. 407.

For instance of notification under the section, see Burma Gazette, 1896, Pt. I, p. 503.

Notification of residence of strangers in villages.

11. (*1*) If any person comes into a village of which he is not a resident, he or the person (if any) in whose house he is living shall, within twelve hours of his coming to the village, report to the headman his arrival, his name and occupation, and the name of the place where he last resided.

(*2*) The departure from a village of a person whose arrival has been reported under sub-section (*1*) shall also be reported by the person, if any, in whose house he has been living.

Prohibition of unauthorised settlement of strangers in villages.

12. A person who is not a resident of a village shall not build any house, hut or enclosure or take up his residence in the village without the permission of the headman

Power to require residents to remove from villages

13. When the Deputy Commissioner has reason to believe, on the report of a headman or otherwise, that a person residing in any place is in the habit of harbouring, aiding or abetting dacoits, robbers or cattle-thieves, or has taken up his residence in that place for the purpose of such harbouring, aiding or abetting, he may require that person to leave that place and to reside in such other place as the Deputy Commissioner may direct.

Penalty for breach of orders under immediately preceding sections.

14. (*1*) If a person contravenes the provisions of section 11 or section 12, he shall be punished on conviction by a Magistrate with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to fifteen days, or with both.

(*2*) If a person disobey a requisition under section 13, he shall be punished, on conviction by a Magistrate, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for holding, promoting or taking part in, unlicensed *pwès*.

[1]**14A.** (*1*) Whoever holds a *pwè* in any village without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a *pwè* held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).

Mode of recovering certain fines.

15. (*1*) A fine imposed under this Regulation may be recovered as if it were an arrear of revenue.[2]

(*2*) A fine imposed under section 9 may, with the previous sanction of the Local Government, be commuted into an annual addition to the capitation-

[1] S. 14A was inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278

[2] *See* the Upper Burma Land and Revenue Regulation, 1889 (III of 1889), ss. 41 and 47, *Infra*, p. 344.

tax payable by the residents of the village or to the land-revenue payable in respect of the village-lands, or, in the case of revenue-free lands, to an annual assessment at such rates and for such term of years as the Local Government may direct.

Finality of orders.

16. (*1*) An appeal shall not lie from any order made under this Regulation.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, an order made under this Regulation shall be final and shall not be liable to be contested by suit or otherwise.

[1] [(*4*) The word "order" in this section does not include the decision of a headman in a suit tried in exercise of powers conferred under section 8A, sub-section (*1*).]

Jurisdiction of Civil Courts in matters relating to the appointment of village headmen barred.

[2] **16A.** A Civil Court shall not have jurisdiction over any claim to the office of headman or other village-officer, or in respect of any injury caused by exclusion from such office, or power to compel the performance of the duties, or a division of the emoluments, thereof.

Provisions with respect to emoluments of headmen.

[2]**16B.** (*1*) The emoluments of a headman shall not be liable to attachment in execution of a decree or order of any Civil Court.

(*2*) An assignment of, or charge on, or an agreement to assign or charge any such emoluments shall be void.

(*3*) Where the emoluments of a headman consist wholly or in part of a grant of land, the title shall pass with the office of headman, and the Deputy Commissioner may, upon such terms, if any, as to compensation for improvements or otherwise as he thinks fit, enforce the surrender of the land to the person for the time being holding that office.

Delegation of powers of Deputy Commissioner to Assistant Commissioner.

[2] **16C.** The Local Government may authorize any Assistant Commissioner, by name or by virtue of his office, to exercise in any district or part of a district all or any of the powers of the Deputy Commissioner under this Regulation.

Power to make rules.

[3] **17.** (*1*) The Local Government may, subject to the control of the

[1] Sub-s. 4 was added by the Upper Burma Village Regulation (1887) Amendment Regulation, 1891 (I of 1891), s. 12, printed, *infra*, p. 367.

[2] Ss. 16A, 16B and 16C were inserted by the Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), s. 3, printed, *infra*, p. 407.

[3] This sub-section was substituted for the original, by the Upper Burma Village Regulation (1887) Amendment Regulation, 1891 (I of 1891), s. 13, printed, *infra*, p. 367.

Governor General in Council, make rules[1] consistent with this Regulation—

(*a*) for the disposal of fees levied under section 6, sub-section (*9*), and section 8A, sub-section (*1*) ;

(*b*) prescribing the procedure to be observed by a headman trying a suit in exercise of powers conferred under section 8A, sub-section (*1*), the record which he is to make of the suit and the mode in which that record is to be disposed of, the powers which he may exercise as regards the costs of the suit, and of any proceeding arising thereout, the manner in which a decree or order made by him may be executed by himself, and the manner, circumstances and conditions in and on which such a decree or order may be sent for execution to, and be executed by, another headman or a Civil Court; and,

(*c*) generally, for carrying into effect the purposes of this Regulation.

(*2*) All such rules shall be published in the official Gazette and shall thereupon have the force of law.

Effects of Regulation.

X of 1882.

18. This Regulation shall take effect notwithstanding anything in the Code of Criminal Procedure, 1882,[2] or in any other enactment for the time being in force.

Construction of the words "Myothugyi" and "Thugyi" in past enactments and notifications

19. Where in any enactment or notification passed or published before the commencement of this Regulation the word "Myothugyi" or the word "Thugyi" occurs, it shall be held to include any person, however designated, who in any part of the territories to which this Regulation extends occupies a position similar to that which is held by a Myothugyi or Thugyi, as the case may be, in other parts of those territories.

THE UPPER BURMA LAND AND REVENUE REGULATION, 1889.

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REGULATION No. III OF 1889.

A Regulation to declare and amend the law relating to rights in land and the assessment and collection of revenue in Upper Burma.

Received the Governor General's assent on the 12th June, 1889; published in the Gazette of India of the 15th idem; and in the Burma Gazette of the 29th idem.

WHEREAS it is expedient to declare and amend the law relating to rights in land and the assessment and collection of revenue in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Land and Revenue Regulation, 1889.

(*2*) It extends to the whole of Upper Burma * * * *[1]; and

(*3*) It shall come into force on such day as the Local Government, by notification in the Burma Gazette, appoints in this behalf.[2]

Repeal, and pending proceedings.

2. (*1*) The Upper Burma Revenue Regulation, VII of 1887, is hereby repealed;

(*2*) But all rules made under that Regulation and in force thereunder immediately before the commencement of this Regulation shall be deemed, so far as

[1] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), the Fifth Schedule. *Supra*, p. 286.

[2] Reg. III of 1889 came into force on 13th July, 1889, *see* Burma Gazette, 1889, Pt. I, p. 314.

may be, to have been made under this Regulation and to be in force thereunder.

(*3*) All proceedings relating to matters dealt with by this Regulation and pending at the commencement of this Regulation before officers by whom they would be cognizable under this Regulation shall be deemed, so far as may be, to have been commenced under this Regulation.

Definitions.

[1]**3.** In this Regulation, unless there is anything repugnant in the subject or context, —

(1) the expression "minerals" includes amber;

(2) "town" means any area declared by the Local Government, by notification[2] in the local official Gazette, to be a town for the purposes of this Regulation, or constituted a municipality or town for the purposes of the Upper Burma Municipal Regulation, 1887,[3] or the Upper Burma Towns Regulation, 1891,[4] or of any other enactment for the time being in force; and

V of 1887.
VI of 1891.

(*3*) "village" includes a village as defined for the purposes of the Upper Burma Village Regulation, 1887,[5] and any group of villages to which a headman may have been appointed under that Regulation.

XIV of 1887.

CHAPTER II.

REVENUE-OFFICERS.

Classes, Local Jurisdiction and Powers.

Classes, local jurisdiction and powers of Revenue-officers.

4. (*1*) There shall be the following classes of Revenue-officers, namely :—

(*a*) the Financial Commissioner,

(*b*) the Commissioner,

(*c*) the Collector,

(*d*) the Assistant Collector of the first class, and

(*e*) the Assistant Collector of the second class.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner, Subdivisional Officer, Township Officer, Myo-ôk, [6][Superintendent of Land Records] or Akunwun to be an Assistant Collector of the first or of the second class, as it thinks fit.

[1] This section was substituted for the original section, by the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898 (III of 1898), s 2, printed, *infra*, p. 426.
[2] For instance of such a notification, *see* Burma Gazette, 1899, Pt. I, p 187.
[3] Printed, *supra*, p. 316.
[4] Printed, *infra*, p. 368
[5] Printed, *supra*, p. 232.
[6] These words were inserted by the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895 (II of 1895), printed, *infra*, p. 393.
For appointments under this sub-section, *see* Burma Laws List, Ed. 1897, Pt. III (2), p. 34.

(*4*) Appointments under sub-section (*3*) shall be by notification in the Burma Gazette, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Regulation, the jurisdiction of Commissioners and of Collectors and Assistant Collectors extends to the divisions and districts respectively in which they are for the time being employed.

Powers of Revenue-officers

[1]**5.** Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Regulation the Local Government, by notification in the Burma Gazette or by the rules which it is empowered by this Regulation to make, or the Financial Commissioner by the rules which he is so empowered to make, may determine the functions to be discharged under this Regulation and the rules thereunder by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

6. (*1*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*2*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*3*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases

7. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, among the Revenue-officers under his control, any business cognizable by any of those officers.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself or by written order refer it for disposal to any other Revenue-officer under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

[1] For notification under this section, *see* Burma Gazette, 1889, Pt. IV, p. 591; 1894, Pt. I, p. 439; *ibid*, 1899, Pt. IV, p. 204.

Appeal, Review and Revision.

Appeals.

8. An appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely :—

(*a*) to the Collector when the order is made by an Assistant Collector of either class ;

(*b*) to the Commissioner when the order is made by a Collector ;

(*c*) to the Financial Commissioner when the order is made by a Commissioner :

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie.

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

9. The period of limitation for an appeal under the last foregoing section shall run from the date of the making of the order appealed from, and shall be as follows, that is to say :—

(*a*) when the appeal lies to the Collector—thirty days ;

(*b*) when the appeal lies to the Commissioner—sixty days ;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review.

10. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order made by himself or by any of his predecessors in office :

Provided as follows :—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself made, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether made by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject ;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the making of the order or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order ;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer, of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

Power to call for and revise proceedings of Revenue-officers.

11. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) make such order as he thinks fit:

Provided that he shall not under this section make an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

Rules as to procedure

12. (*1*) The Local Government may make rules consistent with this Regulation for regulating the procedure of Revenue-officers under this Regulation in cases in which a procedure is not prescribed by this Regulation.

(*2*) The rules may provide, among other matters for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which any Civil Court in British India, other than a superior Court of Record, may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) Subject to the rules under this section a Revenue-officer may refer any case which he is empowered to dispose of under this Regulation to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by

13. (*1*) Appearances before a Revenue-officer, and applications to and

acts to be done before him, under this Regulation and the rules thereunder may be made or done—

Persons by whom appearances and applications may be made before and to Revenue-officers.

(*a*) by the parties themselves, or,

(*b*) with the permission of the Revenue-officer, by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the Revenue-officer.

(*2*) For the purposes of sub-section (*1*) the recognized agents of parties by whom appearances, applications and acts may be made or done are servants, partners, relations or friends whom the Revenue-officer may admit as fit persons to represent parties, and specially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managers of lands, nearest male relations of women, and persons authorized by virtue of their office to represent the Government.

(*3*)[1] No legal practitioner shall practise before any Revenue-officer unless he holds a certificate from the Financial Commissioner authorizing him to do so.

(*4*) Such a certificate shall be current for such time and chargeable with such stamp duty, and authorize practice before such Revenue-officers, as the Financial Commissioner prescribes, and may at any time for any cause appearing to the Financial Commissioner to be sufficient be cancelled by him.

(*5*) A Revenue-officer, in determining the costs of any proceeding before him under this Regulation, shall not allow to be included therein the remuneration of any recognized agent or legal practitioner.

Power of Revenue-officer to summon persons.

14. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

15. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on

[1] For rules under this sub-section, *see* Burma Laws List, Ed. 1897, Pt. III (2), pp. 34 to 36.

(*b*) his recognized agent or (*c*) an adult male member of his family usually residing with him or (*d*) the headman of the village in which he resides.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place on or near the land.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for any other mode of service, by forwarding the summons by post in a prepaid letter addressed to the person at his usual or last known place of residence and registered under Part III of the Indian Post Office Act, 1866.[1] XIV of 1866.

(*5*) When a summons is so forwarded in a prepaid letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice or order.

16. A notice or order issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

17. When a proclamation is issued by a Revenue-officer it shall be made by such method as the Revenue-officer may decide to be the customary method and, if the proclamation relates to land, it shall be further made by the posting of a copy thereof on some conspicuous place on or near the land.

Supplemental Provisions.

Holidays.

18. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the Burma Gazette before the commencement of

[1] *See* now the Indian Post Office Act, 1898 (VI of 1898), by which Act XIV of 1866 was repealed, and which has been declared to be in force in Upper Burma, by the Burma Laws Act, 1898 (XIII of 1898), First Schedule, printed, *supra*, p. 266. For Act VI of 1898, *see* General Acts, Vol. VI, p. 683.

each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

19. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf, shall be deemed to be a Collector under this Regulation.

Retention of powers by Revenue-officers on transfer.

20. When a Revenue-officer of any class who has been invested under the provisions of this Regulation with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in the other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer

21. (1) The Local Government may, by notification in the Burma Gazette, confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Regulation and the rules thereunder,[1] or

(*b*) all or any of the powers with which an Assistant Collector may be invested under this Regulation,

and may by a like notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise them within such local limits and in such classes of cases as the Local Government may direct, and shall, if the Local Government so directs, be deemed for all purposes connected with the exercise thereof to be the Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be, having exclusive jurisdiction within those limits with respect to those classes of cases.

(3) If any of the powers of a Collector under this Regulation and the rules thereunder are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs,[2] be exercised by him subject to the control of the Collector.

[1] For notifications conferring powers under sub-section (1) of this section, *see* those noted on pp. 38 and 40 of the Burma Laws List, Ed. 1897, Pt. III (2).

[2] For notification directing that Settlement Officers when exercising powers of a Collector under s. 27, shall not be subject to the control of the Collector, *see* Burma Gazette, 1894, Pt. I, p. 487.

CHAPTER III.

PROVISIONS WITH RESPECT TO CERTAIN SOURCES OF REVENUE.

Thathameda-tax.

Thathameda-tax

22. (*1*) The Thathameda-tax shall be leviable at such average rate per household or family, and shall be assessed by such persons and subject to such rules as the Local Government directs.

(*2*) The average rate at which thathameda-tax is to be levied may vary from district to district, and from place to place within a district, as the Local Government, having regard to local circumstances, may deem expedient.

(*3*) In the case of any town or village, or, if the Financial Commissioner so directs, of any part of a town or village, all the inhabitants of the town, village or part, as the case may be, shall be jointly and severally liable for the whole of the thathameda-tax leviable therein.

State Land.

Definition of "State land."

23. "State land" in the following sections of this Regulation means land belonging to or at the disposal of the Government, and includes—

(*a*) land hitherto termed royal land ;

(*b*) land held on condition of rendering public service or as an appanage to or emolument of a public office ;

(*c*) islands and alluvial formations in rivers ;

(*d*) waste-land and land included within reserved or village forests ; and

(*e*) land which has been under cultivation but has been abandoned and to the ownership of which no claim is preferred within two years from the commencement of this Regulation.

Cognizance of claims to State land

24. (*1*) Any land which before the commencement of this Regulation has been or thereafter may be declared by the Collector to be State land shall be deemed to be such land until the contrary is proved.

(*2*) A claim to the ownership or possession of any land with respect to which such a declaration has been or may be so made, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon or other interest in, such land or the rents, profits or produce thereof, shall be cognizable by the Collector only, and the order which the Collector may make on the claim shall, subject to the provisions of Chapter II with respect to appeal, review and revision, be final.

[1][*(3)* The period of limitation for a claim under the last preceding sub-section shall be one year from the date of the declaration made by the Collector.]

Incidents of the tenure of State land.

25. Subject to the provisions of this Regulation and the rules thereunder and to the terms of any order made on any such claim as is mentioned in sub-section *(2)* of the last foregoing section, the following are among the incidents of the tenure of State land, namely :—

(*a*) an occupier of State land can have no heritable or transferable right of use or occupancy therein, nor can any rights adverse to the Government exist in such land unless they have been created or continued by a grant made by or on behalf of the British Government ;

(*b*) the rent payable in respect of State land is such as may have been agreed upon between the occupier and an officer of the Government authorized by rules to be made by the Local Government in this behalf to enter into such an agreement with the occupier on behalf of the Government, or, in the absence of such an agreement, such sum as such an officer, with the approval of the Collector, may determine to be a fair and equitable rent[2] for the use and occupation of the land ;

(*c*) an occupier of State land may not, except for default in the payment of rent due from him to the Government, be ejected from such land without such notice as may be prescribed by rules to be made by the Local Government in this behalf or, failing such notice, such compensation as, subject to any such rules, the Collector may, having regard to all the circumstances of the case, deem just ;

(*d*) a person occupying State land without the permission of the Collector or of some other officer authorized by rules to be made by the Local Government in this behalf, or occupying such land with such permission and making default in the payment of the rent due from him to the Government in respect thereof, may at any time be ejected from the land by order of the Collector.

Grant and temporary occupation of waste-land,

26. *(1)* The Financial Commissioner may make rules[3]—

(*a*) for the disposal by way of grant or otherwise of any State land which is waste,

[1] This sub-section was added by the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895 (II of 1895). *Infra*, p. 406.

[2] For notifications sanctioning rates of assessment for State lands, *see* those noted on p. 40 of Pt. III (2) of the Burma Laws List, Ed. 1897. *See* also Notifications Nos. 206 and 207, Burma Gazette 1899, Pt. I, pp. 275 and 276.

[3] S. 26 has been applied to the Shan States, with modifications, *see* Notification No. 3 dated 28th January, 1897, printed, *infra*, p. 617. For rules made under this section as so modified *see* Burma Gazette, 1897, Pt. I, p. 46 ; *ibid*, Pt. IV, pp. 396—398 ; *ibid*, 1898, Pt. IV, pp. 169, 313 and 456 ; *ibid* 1899, Pt. IV, p. 71.

and allotment of such land for grazing-grounds.

(*b*) for regulating the temporary occupation of such land, and

(*c*) for the allotment from such land of grazing-grounds to the inhabitants of any village in the neighbourhood thereof whom he considers to stand in need of such allotment, and the regulation and control of the use of such grazing-grounds by persons permitted to graze their cattle thereon.

(*2*) Rules under clause (*a*) of sub-section (*1*), with respect to State land which is waste, may provide for the following among other matters, namely :—

(i) the amount or kind of interest to be created in such land, and the conditions, if any, subject to which such interest may be conferred,

(ii) the mode in which grants and other dispositions of the land may be made,

(iii) the total or partial exemption, either absolutely or subject to conditions, of the land from rent for a term of years or for any life or lives or during the maintenance of any institution, and

(iv) the realization of any money payable in consideration of the grant or other disposition, or of any penalty payable on breach of a condition annexed to such grant or disposition, as if it were an arrear of revenue due in respect of the land from the person taking under the grant or disposition, his legal representatives or assigns,

but such rules shall not take effect until they have been approved by the Governor General in Council.

(*3*) A rule under sub-section (*1*) may authorize the ejectment, by order of any Revenue-officer, of any person occupying or using land in contravention of any rule under that sub-section.

(*4*) No person shall acquire, by length of possession or otherwise, any interest in land disposed of, occupied or allotted in pursuance of rules under clause (*a*), clause (*b*) or clause (*c*) of sub-section (*1*) beyond such interest as is conferred by the rules.

Lands other than State Land.

Liability to payment of land-revenue of lands other than State land.

27. (*1*) All lands other than State land, to whatever purpose they may be applied and wherever they may be situate, shall, subject to the other provisions of this section and, where thathameda-tax is payable by holders of such lands, to such adjustment of or exemption from that tax as may be authorized by rules to be made by the Local Government in this behalf with the previous sanction of the Governor General in Council, be liable to the payment of land-revenue to the Government.

(2) The assessment of such lands to land-revenue shall be made by a Revenue-officer—

(*a*) according to such method of assessment,

(*b*) on consideration of such sources of income,

(*c*) with effect from such date, and

(*d*) for such period,

as may be approved by the Local Government with the previous sanction of the Governor General in Council.

(3) When the method of assessment to be adopted and the sources of income to be considered have been determined, the Revenue-officer making the assessment shall, under the direction of the Financial Commissioner, fix the rates of assessment.

(4) In the case of land which was subject to the payment of land-revenue immediately before the commencement of this Regulation, the land-revenue payable in respect thereof shall, until the land is assessed under this section, be levied in such manner and at such rates as has and have heretofore been customary.

(5) Nothing in sub-section (*1*) with respect to the liability of lands other than State land to the payment of land-revenue shall be construed to apply to any of the following classes of land, namely :—

(*a*) land belonging at the commencement of this Regulation to the site and curtilage of any monastery, pagoda or other sacred building, or of any school, and continuing to be used for the purpose of such monastery, pagoda, building or school ;

(*b*) land appropriated to the dwelling-places of any town or village ; and

(*c*) land exempted from liability to the payment of land-revenue by the express terms of any grant made or continued by or on behalf of the British Government.

Joint liability for land-revenue.

28. When any local area is being assessed to land-revenue under the last foregoing section, the Local Government may, by notification in the Burma Gazette, declare, with respect to the whole or any part of the area, that all the holders of all the lands assessed in each village therein shall be jointly and severally responsible for the land-revenue assessed on all the lands in the village.

Land-records.

Preparation and maintenance of

29. (*1*) As soon after the commencement of this Regulation as circumstances permit, the Financial Commissioner shall cause a record-of-rights to be

record-of-rights.

prepared for each village, [1][and for such towns as he may, from time to time by notification in the local official Gazette, direct] and, when such a record has been prepared, the Collector shall maintain it by causing a corrected edition thereof to be prepared at such intervals as the Financial Commissioner may prescribe.

(*2*) For the purpose of facilitating the preparation of the periodical edition of the record-of-rights, a register, to be called the register of mutations, shall be kept in which any event affecting any of the matters recorded in the record-of-rights or in the last periodical edition thereof shall be recorded as soon as may be after it happens.

(*3*) The Financial Commissioner shall from time to time make rules[2]—

(*a*) as to the documents (including maps) to be comprised in the record-of-rights, and their contents and form;

(*b*) as to the documents (including maps) to be comprised in the periodical edition of the record-of-rights, and their contents and form;

(*c*) as to the contents and form of the register of mutations, and the verification of matters to be recorded therein;

(*d*) as to the obligation of persons interested in land to give information of any event which may affect any of the matters recorded in the record-of-rights or in the last periodical edition thereof;

(*e*) as to the consequences which shall ensue on failure to discharge such obligation;

(*f*) as to the fee, if any, to be paid in respect of any entry in a register of mutations and the person by whom such fee is to be payable; and,

(*g*) generally, for the guidance of Revenue-officers and headmen in carrying out the purposes of this section.

(*4*) Any person whose rights or liabilities are required by any rule under sub-section (*3*) to be recorded under this section shall be bound to furnish, on the requisition of any Revenue-officer or headman engaged in compiling the record, all information necessary for the correct compilation thereof.

Determination of disputes arising out of preparation and maintenance of record-of-rights.

30. (*1*) If, in the course of any proceeding for the purpose of carrying out the provisions of the last foregoing section and the rules thereunder, a dispute arises as to any matter of which an entry is to be made in a record or register, a Revenue-officer, of his own motion or on the application of any

[1] These words were added by s. 3 of the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898 (III of 1898), printed, *infra*, p. 426.

[2] For rules for the preparation of the annual record-of-rights, *see* Burma Gazette, 1898, Pt. IV, p. 354.

party interested, may, after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which may be subsequently passed by any competent authority.

Minerals and Earth-oil.

Mines, minerals, coal and earth-oil.

31. (*1*) Save as otherwise expressly provided by the terms of any grant made or continued by or on behalf of the British Government, the right to all precious stones, mines, minerals, coal and earth-oil shall be deemed to belong to the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

(*2*) Whenever in the exercise of any such right of the Government the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

(*3*) The compensation shall be determined as nearly as may be in accordance with the provisions of the [1][Land Acquisition Act, 1894].

[2][(*4*) The Local Government may make rules for the levy and collection of royalties or fees in respect of minerals mined, quarried or collected in land wherein the right to minerals is deemed to belong to the Government.]

Fisheries.

Fisheries.

32. (*1*) In this and the following sections of this Regulation :—

(*a*) "fishery" means any collection of water, running or still, which is itself of a permanent nature or is connected with some waters of a permanent nature, and in which fish or turtle may be found :

(*b*) "to fish" includes to catch turtle or collect their eggs : and

(*c*) "fixed engine" means any fixed implement for catching or for

[1] The words and figures "Land Acquisition Act, 1894" were substituted for the words and figures "Upper Burma Land Acquisition Regulation, IX of 1886", by s. 4 (*1*) of the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898 (III of 1898), printed, *infra*, p. 426.

[2] Sub-s. (*4*) was added by s. 4 (*2*) of the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898 (III of 1898).

facilitating the catching of fish, and includes a net secured by anchors or otherwise temporarily fixed to the soil.

(*2*) Every fishery shall be deemed to belong to the Government, and no right to fish in any fishery shall be deemed to have been acquired by the public or by any person, either before or after the commencement of this Regulation, except under this section or the rules thereunder.

(*3*) Subject to such rules and to such conditions and restrictions as the Financial Commissioner with the previous sanction of the Local Government may prescribe in this behalf, the Collector of any district may dispose of the right to fish in any fishery situate within his district, or specially placed under his charge by the Financial Commissioner, either by granting to any person a lease of the exclusive right to fish in such fishery or by granting to any number of persons licenses to use nets, traps or other implements for fishing therein.

(*4*) All such leases and licenses granted before, and in force at, the commencement of this Regulation shall be deemed to have been granted under sub-section (*3*).

(*5*) Except where a lease has been granted of the exclusive right to fish in a fishery, any person may without a license fish in the fishery by angling therein with a rod and line only.

(*6*) The Local Government may declare, with respect to any fishery, that it shall cease to be a fishery for the purpose of this section, and may at any time cancel any such declaration.[1]

(*7*) The Financial Commissioner may make rules for all or any of the following purposes, namely :—

(*a*) for the survey and demarcation of the limits of fisheries ;

(*b*) for determining in which of the modes mentioned in sub-section (*3*) the right to fish in any fishery is to be disposed of ;

(*c*) for regulating the conditions on which, and the procedure by which, fisheries may be opened to the public or leases may be granted of the exclusive right to fish in fisheries ;

(*d*) for fixing the rates at which, and the conditions on which, licenses to use nets, traps or other implements for fishing in fisheries may be granted ;

(*e*) for settling the conditions on which permission to erect, place, maintain or use obstructions and fixed engines in fisheries or waters connected therewith may be granted ;

[1] For declaration issued under this sub-section, *see* Burma Gazette, 1896, Pt. I, p. 477.

(*f*) for making and maintaining free gaps in weirs; and

(*g*) generally, for carrying out the purposes of this section.

(*8*) If any person fishes in any fishery without having a right to fish therein, he shall be punished, for a first offence, with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and, for a subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Salt.

Manufacture of salt.

33. (*1*) In this section the word "saltpetre" and the expression "manufacture of salt" have the same meanings, respectively, as in the Indian Salt Act, 1882,[1] and in this and the following sections of this Regulation the word "salt" includes saltpetre.

XII of 1882.

(*2*) The Financial Commissioner may make rules—

(*a*) for granting licenses for the manufacture of salt; and

(*b*) for compounding with the holder of such a license for the payment by him of an annual sum assessed upon the plant employed by him, in lieu of the duty which would be payable by him on the salt manufactured with the aid of such plant.

(*3*) If any person, without such a license for the time being in force—

(*a*) engages in the manufacture of salt,

(*b*) owns works for the manufacture of salt, or

(*c*) stores salt exceeding such quantity as the Financial Commissioner, by notification in the Burma Gazette, prescribes in this behalf,

he shall be punished with fine which may extend to two hundred rupees, and with a further fine which may extend to twenty rupees for every day after a first conviction under this sub-section during which he continues such manufacture or storage; and

(*4*) All salt in respect of which a conviction under the last foregoing sub-section has taken place, and all materials and implements used for the purpose of the manufacture of such salt, shall be liable to confiscation by order of the convicting Magistrate.

Irrigation-works.

Water-rate.

34. (*1*) A water-rate shall be payable in respect of all lands irrigated from channels, tanks and other irrigation-works controlled and wholly or partially maintained by the State.

[1] Printed, General Acts, Vol. IV, p. 221.

(*2*) The Financial Commissioner may make rules[1] for determining the amount of the water-rate to be paid in any district, tract or place, and, in the absence of such rules, water-rate shall continue to be levied in such manner as has heretofore been customary.

(*3*) The Local Government, whenever it appears to be necessary in the public interests, may, upon such terms, if any, as to compensation as it deems just, assume the control and undertake in whole or in part the maintenance of any irrigation-work, and shall thereupon be entitled to levy a water-rate on all land irrigated from the work.

Tolls for navigation in irrigation-channels.

35. (*1*) Tolls shall be payable in respect of all boats and other vessels navigating irrigation-channels which are controlled and wholly or partially maintained by the State.

(*2*) The Financial Commissioner may make rules for determining the rates at which such tolls are to be payable in any district, tract or place and for regulating the navigation of such channels.

(*3*) In the absence of rules determining under sub-section (*2*) the rates at which tolls are to be payable, tolls shall continue to be levied in such manner as has heretofore been customary.

Record respecting irrigation-works.

36. (*1*) With respect to every irrigation-work in each district, whether the work has hitherto been maintained by the Government or not, the Collector [2][may ascertain] and record, in such form and in such detail as the Financial Commissioner may direct,—

(*a*) the nature of the work and of all embankments, channels, weirs and other works subsidiary thereto;

(*b*) the lands irrigable from the work;

(*c*) the water-rate, if any, chargeable on the lands irrigable from the work;

(*d*) the customs relating to the raising of funds for the maintenance and repair of the work and the liabilities of villages or persons jointly or severally to contribute to those funds;

(*e*) the obligations resting on villages or persons jointly or severally to labour or provide labourers or render any service in connection with the maintenance or repair of the work; and

(*f*) the privileges or exemptions enjoyed by the villages or persons on whom the liabilities and obligations referred to in clauses (*d*) and (*e*) rest.

[1] For rules issued under this sub-section, *see* Burma Laws List, Ed. 1897, Pt. III (2), p. 42.

[2] The words "may ascertain," were substituted for the words "shall ascertain" by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278.

(*2*) The Financial Commissioner may make rules[1] for the enforcement of all or any of the customs, liabilities and obligations so recorded.

(*3*) The Collector may at any time, by a proceeding in writing under his hand, correct the record made under this section.

CHAPTER IV.

Collection of Revenue.

37. In the following sections of this Regulation :— Definitions of "revenue" and "moveable property."

(*1*) "revenue" includes—

(*a*) thathameda-tax ;

(*b*) rent and land-revenue payable in respect of State and other lands ;

(*c*) revenue payable on account of precious stones, mines, minerals, coal, earth-oil, fisheries, salt and ferries ;

(*d*) water-rate in respect of irrigation from channels, tanks or other irrigation-works controlled and wholly or partially maintained by the State, and tolls in respect of navigation in irrigation-channels so controlled and maintained ;

(*e*) excise in respect of spirit, fermented liquor, intoxicating drugs and opium ; and

(*f*) every other sum payable to the Government in accordance with law, contract or local usage ; and

(*2*) "moveable property" includes standing timber, growing crops and grass, and fixed engines in fisheries or waters connected therewith.

38. (*1*) The Financial Commissioner may make rules determining the number and amount of the instalments by which, the person to whom, and the time, place and manner at and in which, any revenue is to be paid. Time and mode of payment of revenue.

(*2*) Until rules are made under sub-section (*1*), revenue shall be paid by the instalments, to the persons, at the times and places and in the manner by which, to whom and at and in which it was payable immediately before the commencement of this Regulation.

(*3*) Any revenue not paid as required by rules under sub-section (*1*) or by sub-section (*2*) is an arrear, and the person from whom it is primarily due, as well as the surety, if any, for the payment thereof by that person, is a defaulter.

39. The revenue for the time being payable in respect of any land shall be the first charge upon the rents, profits and produce of the land, and, except Security for payment of revenue.

[1] For rules made under this sub-section, *see* Burma Laws List, Ed. 1897, Part III (*2*), p. 42.

with the written consent of the Collector, such rents, profits or produce shall not be liable to be taken in execution of a decree or order of any Court until the revenue chargeable thereon, and any arrear of revenue due in respect of teh land, have been paid.

Certificate as to arrear, and effect thereof.

40. Subject to the other provisions of this Chapter, a statement of account certified by a Collector or Assistant Collector shall be conclusive proof of the existence of an arrear, of its amount and of the person who is the defaulter.

Process for recovery of arrear.

41. (*1*) An arrear may be recovered by any one or more of the following processes, namely :—

(*a*) by service on the defaulter of a notice requiring him to pay the arrear at a time and place, and to a person, specified in the notice;

(*b*) by attachment and sale of any moveable property belonging to the defaulter except, if he is an agriculturist, his implements of husbandry and seed-grain and the cattle actually employed by him in agriculture and, if he is an artisan, his tools;

(*c*) by the arrest of the defaulter and his imprisonment in the civil jail for a period not exceeding one month;

(*d*) by attachment and sale of any immoveable property belonging to the defaulter.

(*2*) The processes described in sub-section (*1*) may be used either separately or simultaneously.

Effect of sale on incumbrances.

42. (*1*) When any immoveable property is sold under this Chapter for the recovery of an arrear due in respect thereof, the following consequences shall ensue unless a Revenue-officer empowered in this behalf has otherwise directed, namely :—

(*a*) all leases, liens and other incumbrances on the property shall be extinguished, and

(*b*) all grants or contracts previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser.

(*2*) When any immoveable property is brought to sale under this Chapter for the recovery of any other sum than an arrear due in respect thereof, the interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property, shall be sold.

Remedy to person denying that arrear is due.

43. (*1*) When proceedings are taken under this Chapter for the recovery of an arrear, the person against whom they are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the

time of payment and signed by him or his agent, and institute a suit in any Civil Court having jurisdiction, as regards the value of the suit, at the head-quarters of the district in which the arrear is alleged to have accrued, for the recovery of the amount which he denies to be due.

(*2*) In a suit instituted under sub-section (*1*) the plaintiff may, notwithstanding anything in section 40, give evidence with respect to his liability for the payment of the alleged arrear.

Rules for the purposes of this Chapter.

44. (*1*) The Financial Commissioner may make rules consistent with this Regulation—

(*a*) for determining the officers or classes of officers by whom any of the processes described in section 41 may be enforced ;

(*b*) for regulating the procedure to be followed in enforcing any of those processes ;

(*c*) prescribing fees for the service or execution of any of those processes ;

(*d*) for determining the commission, if any, to be allowed to persons appointed in accordance with any rule under section 38, sub-section (*1*) to receive payment of any revenue and, where the commission is to be paid to more persons than one, the manner in which it is to be divided among them ; and,

(*e*) generally, for the guidance of all persons in matters connected with the enforcement of this Chapter.

(*2*) Any fee leviable in pursuance of any rule under clause (*c*) of sub-section (*1*) shall be recoverable as part of the arrear in respect of which the process was issued.

Disposal of proceeds of sales.

45 (*1*) When a sale of any property under this Chapter for the recovery of an arrear has become absolute, the proceeds thereof shall be applied, in the first place, to the payment of the arrear and, in the second place, to the payment of any other arrear, or of any sum recoverable as an arrear under this Chapter, which may be due to the Government from the defaulter.

(*2*) Any balance of the proceeds of the sale which may remain after satisfaction of the claims of the Government under sub-section (*1*) shall, subject to the directions of any Court with respect to the application thereof, be paid to the defaulter.

Prohibition of Revenue-officers bidding at sales for recovery of revenue.

46. Except on behalf of the Government, no Revenue-officer, or person employed in a revenue-office, shall purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly, or in shares with others, any property which any Revenue-officer in the district in which he is employed has ordered to be sold for the recovery of an arrear of revenue.

Recovery under this Regulation of other demands than revenue.

47. Where, under any enactment for the time being in force, any sum is recoverable as an arrear of revenue, or as an arrear of land-revenue, it shall be recoverable as an arrear under this Chapter.

Validation of past proceedings.

48. All revenue collected before the commencement of this Regulation shall be deemed to have been collected in accordance with law.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Rules as to process-serving establishments.

49. The Local Government may, with the previous sanction of the Governor General in Council, make rules with respect to the establishments to be maintained for the service and execution of processes issued by Revenue-officers and Civil and Criminal Courts, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870,[1] or other enactment for the time being in force. VII of 1870.

Power to enter, for purposes of assessment, upon land and do certain acts thereon.

[2]**49A.** So far as may be necessary for the purposes of any assessment of land either contemplated or in progress, any Revenue-officer generally or specially empowered by the Financial Commissioner in that behalf—

(*a*) may enter upon, demarcate, survey and make plans of any land; and

(*b*) so far as may be necessary for the purpose of estimating the capabilities of the soil, may cause any ripe crop thereon to be cut and threshed, or otherwise properly harvested, and the grain or other produce to be measured and weighed:

Provided that not more than half an acre of the crop belonging to any one person shall be so cut upon any one occasion without the consent of the owner thereof, and that without the consent of the occupier thereof no farm or other holding shall be entered upon under this section oftener than once in five years:

Provided also that in the exercise of this power no injury shall be caused to any other crop or land.

General power of Financial Commissioner to make rules.

50. The Financial Commissioner may, in addition to the other rules which may be made by him under this Regulation, make rules consistent with this Regulation and any other enactment for the time being in force—

(*a*) prescribing the fees to be charged for the service and execution of

[1] Printed, General Acts, Vol. II, p. 124.

[2] S. 49A was inserted by the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1894 (III of 1894.), printed, *infra*, p. 379.

processes issued by Revenue-officers otherwise than for the recovery of arrears of revenue, and the mode in which those fees are to be collected;

(*b*) regulating the travelling and other expenses of witnesses;

(*c*) regulating other costs in proceedings before Revenue-officers and providing for the realization of costs in such proceedings as if they were arrears of revenue;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices or records or papers in the custody of headmen or other village-officers or to obtain copies of the same and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices, or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and,

(*g*) generally, for carrying out the purposes of this Regulation.[1]

Provisions with respect to rules under this Regulation.

51. (*1*) The power to make any rules under this Regulation is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.[2]

(*2*) Rules made by the Financial Commissioner under this Regulation shall not take effect until they have been sanctioned by the Local Government.

(*3*) Any power conferred by this Regulation on the Financial Commissioner to make rules, and the power of the Local Government to sanction them, may be exercised at any time after the passing of this Regulation, but a rule so made shall not take effect until this Regulation has come into force.

(*4*) The authority making any rule under this Regulation may attach to the breach thereof, in addition to any other consequences which may ensue from such breach, such punishment, not exceeding imprisonment for one month or fine extending to two hundred rupees, or both, as may seem to such authority, having regard to the object of the rule, to be appropriate.

Powers exercisable by Financial Commissioner from time to time.

52. All powers conferred by this Regulation on the Financial Commissioner may be exercised from time to time as occasion requires.

[1] For rules prescribing procedure on declaring land to be State land, *see* Burma Gazette, 1894, Pt. IV, p. 74.

[2] *See* General Clauses Act, 1897 (X of 1897), s. 23 (5), printed, General Acts, Vol. VI, p. 327.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

53. Except as otherwise provided by this Regulation—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by or under this Regulation to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Regulation; and in particular—

(*2*) a Civil Court shall not exercise jurisdiction over any of the following matters, which shall be cognizable exclusively by Revenue-officers, namely :—

(i) any question as to the limits of any State land;

(ii) any claim to the ownership or possession of any State land, or to hold such land rent-free or at a favourable rent or rate of rent, or to establish any lien upon, or other interest in, such land or the rents, profits or produce thereof;

(iii) any claim to compel the performance of any duties imposed by or under this Regulation or any other enactment for the time being in force on any Revenue-officer as such;

(iv) [*Claim to office of headman.*] *Rep. by Regulation IV of 1896,*[1] *section 4.*

(v) the preparation of record-of-rights or periodical edition of such a record;

(vi) the correction of any entry in a record-of-rights or periodical edition of such a record or in a register of mutations;

(vii) the amount of rent to be paid in respect of any State land, or the amount of land-revenue to be assessed on any other land under this Regulation;

(viii) the amount of, or the liability of any person to pay, any other revenue recoverable under this Regulation;

(ix) any claim connected with, or arising out of, any right in an irrigation-work, or any charge in respect of land irrigated from such a work, or any matter which the Collector is bound to ascertain and record under section 36;

(x) any claim to a right to fish, or connected with, or arising out of, the demarcation or disposal of any fishery;

(xi) any claim to hold free of revenue any land, fishery or natural products of land or water;

(xii) any claim connected with, or arising out of, the collection of revenue, or the enforcement of any process for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

[1] The Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), printed, *infra*, p. 407.

(xiii) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of revenue or any sum recoverable as such an arrear;

(xiv) the amount of, or the liability of any person to pay, any fees, costs or other charges imposed under this Regulation.

REGULATION No. I OF 1891.[1]

[*Received the assent of the Governor General on the 2nd March, 1891; published in the Gazette of India of the 7th idem; and in the Burma Gazette of the 21st idem.*]

A Regulation to amend *the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and* the Upper Burma Village Regulation, 1887.

WHEREAS it is expedient to amend *the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, and* the Upper Burma Village Regulation, 1887; It is hereby enacted as follows:—

1—9. [*Amending the Upper Burma Civil Justice Regulation, 1886 (VIII of 1886).*] *Rep. by the Upper Burma Civil Courts Regulation, 1896 (I of 1896).*

10. [*Amending the Upper Burma Stamps and Limitation Regulation, 1887 (X of 1887).*] *Rep. by the Upper Burma Civil Courts Regulation, 1896 (I of 1896).*

III.

UPPER BURMA VILLAGE REGULATION, 1887.

XIV of 1887.

11. After section 8 of the Upper Burma Village Regulation, 1887, the following shall be inserted, namely:— Insertion of new section after section 8, Reg. XIV, 1887.

[*Vide supra*, p. 337.]

12. To section 16 of the same Regulation the following shall be added, namely:— Addition to section 16, Reg. XIV, 1887.

[*Vide supra*, p. 340.]

13. For section 17, sub-section (*1*) of the same Regulation, the following shall be substituted, namely:— Substitution of new sub-section for section 17 (*1*), Reg. XIV, 1887.

[*Vide supra*, p. 340.]

[1] Short title "The Upper Burma Village Regulation (1887) Amendment Regulation, 1891," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *supra*, p 285. So far as the Regulation amends the Upper Burma Civil Justice Regulation, 1886, the Upper Burma Stamps and Limitation Regulation, 1887, it has been repealed by the Upper Burma Civil Courts Regulation, 1896 (I of 1896), printed, *infra*, p. 395.

REGULATION No. V OF 1891.[1]

Received the assent of the Governor General on the 25th October, 1891, published in the Gazette of India on the 31st idem; and in the Burma Gazette on the 14th November, 1891.]

A Regulation to amend the Upper Burma Ruby Regulation, 1887.

WHEREAS it is expedient to amend section 6 of the Upper Burma Ruby Regulation, 1887; It is hereby enacted as follows:— XII of 1887.

Substitution of new section for section 6, Reg. XII, 1887.

1. For section 6 of the Upper Burma Ruby Regulation, 1887, the following shall be substituted, namely:—

[*Vide supra*, p. 328.]

REGULATION No. VI OF 1891.

[*Received the assent of the Governor General on the 21st December, 1891; published in the Gazette of India on the 26th idem; and in the Burma Gazette on the 9th January, 1892.*]

A Regulation to further provide for the Administration of Towns in Upper Burma.

WHEREAS it is expedient to further provide for the administration of towns in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Towns Regulation, 1891.

(*2*) It extends to the whole of Upper Burma * * *[2]; and

(*3*) It shall come into force on such day as the Local Government may by notification in the Burma Gazette appoint in this behalf.[3]

Definition.

2. In this Regulation, "town" means an area declared by the Local Government, by notification in the Burma Gazette, to be a town[4] for the purposes of the Regulation:

Provided that no such declaratiop shall be made with respect to any

[1] Short title "The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1891," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *supra*, p. 285.

[2] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *supra*, p 286.

[3] Regulation VI of 1891 came into force on 1st October, 1892, *see* Burma Gazette, 1892, Pt. I, p. 513

[4] For notification declaring all municipalities to be towns for the purposes of the Regulation, *see* Burma Gazette, 1892, Pt. I, p. 513. *See* also notifications noted in Burma Laws List, Ed. 1897, Pt. III (*2*), p. 45.

military cantonment or part of a military cantonment without the previous consent of the Governor General in Council.

Wards and blocks, and headmen and elders.

3. (*1*) The Deputy Commissioner may, by order in writing, divide any town into wards and any ward into blocks.

(*2*) The Deputy Commissioner may, by a like order, appoint any person, with the consent of such person, to be the headman of a ward or the elder of a block.

(*3*) The Deputy Commissioner may, by a like order, for reasons to be stated therein, suspend or dismiss the headman of a ward or the elder of a block.

Report of certain matters by headmen and elders.

4. (*1*) Every headman of a ward shall communicate forthwith to the officer in charge of the nearest police-station or to the nearest Magistrate any information which he may obtain respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in his ward;

(*b*) the resort to any place within, or the passage through, his ward of any person whom he may know, or reasonably suspect, to be a dacoit, robber, escaped convict or proclaimed offender;

(*c*) the commission of, or attempt or intention to commit, within his ward any of the following offences, namely:—

(i) murder,

(ii) culpable homicide not amounting to murder,

(iii) dacoity,

(iv) robbery,

XI of 1878. (v) offence against the Indian Arms Act, 1878,[1] and

(vi) any other offence respecting which the Deputy Commissioner, by general or special order, with the previous sanction of the Local Government, may direct him to communicate information

(*d*) the occurrence in his ward of any sudden or unnatural death, or of any death under suspicious circumstances.

(*2*) Every elder of a block shall communicate forthwith to the headman of his ward any information which he may obtain respecting any of the matters specified in sub-section (*1*) which may exist or occur in his block, and in the absence of the headman of his ward he shall communicate the information forthwith to the officer in charge of the nearest police-station.

General duties of headmen and elders.

5.[2] (*1*) The headman of a ward shall be bound—

(*a*) to assist the police in the investigation of every offence respecting

[1] Printed, General Acts, Vol. III, p. 243.

[2] For list of rules under this section, *see* Burma Laws List, Ed. 1897, Pt. III (*2*) p. 45.

which he is required by the last foregoing section to communicate information ;

(*b*) to search for and use his utmost endeavours to arrest any person whom he may have reason to believe to have been concerned in the commission or attempted commission of any such offence, and to recover, if possible, any property taken by any such person ;

(*c*) to arrest any person found lurking within the limits of the ward who cannot give a satisfactory account of himself ;

(*d*) to forward, as soon as may be, to the nearest police-station, any person arrested by him or made over to his custody, together with any weapon or other article likely to be useful as evidence ;

(*e*) to collect, or aid in collecting, to the utmost of his ability, any revenue or other money due to the Government or to a municipal committee from residents of the ward or persons holding land therein ;

(*f*) to report to such officer as may be appointed by the Deputy Commissioner in this behalf all trespass or encroachments upon, any injuries to, State land and public property which may occur within his ward and of which he may reasonably and fairly be expected to have cognizance ;

(*g*) if so ordered by the Deputy Commissioner and in accordance with such rules as may be made in this behalf by the Commissioner with the previous sanction of the Local Government, to register all births and deaths which take place within the ward, and any other vital statistics which may be prescribed by such rules ;

(*h*) to take such measures for the prevention of fires and public nuisances and for the general sanitation of the ward as may be prescribed by any rules [1] made in this behalf by the Commissioner with the previous sanction of the Local Government ;

(*i*) to report all cases of small-pox, cholera and cattle-disease which occur within his ward and of which he may reasonably and fairly be expected to have cognizance, and to supply, to the best of his ability, any local information which any Magistrate, officer of police or municipal officer may require ; and,

(*j*) generally, to assist all officers of the Government and municipal officers in the execution of their public duties.

(*2*) The elder of a block shall be bound to assist the headman of his ward in the performance of the duties prescribed in sub-section (*1*).

[1] For rules under this clause, *see* Burma Laws List, Ed. 1897, Pt. III (*2*), p. 45.

Penalty for neglect of duty by headman or elder.

6. If any headman of a ward or elder of a block neglects, without reasonable excuse, to perform any of the duties imposed upon him by this Regulation or any rule made thereunder, he shall be liable [1][on conviction by a Magistrate] to a fine which may extend to fifty rupees.

Obligation on residents of ward to aid headman.

7. (*1*) Every person residing in a ward shall, on the requisition of the headman, be bound to assist him in the execution of his public duties.

(*2*) If any such person refuses or neglects to comply with any lawful requisition of the headman, he shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be liable [1][on conviction by a Magistrate] to a fine which may extend to fifty rupees.

Penalty for holding, promoting or taking part in unlicensed pwès.

[2]**7A.** (*1*) Whoever holds a pwè in any[3] [town] without a license granted by the Deputy Commissioner or by an officer appointed by the Deputy Commissioner in this behalf, or promotes the holding of, or takes part in, a pwè held without such license, shall be punished, on conviction by a Magistrate, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No fee shall be paid on the application for, or on the issue of, the license required by sub-section (*1*).

Finality of orders.

8. (*1*) No appeal shall lie from any order made under this Regulation or any rule made thereunder.

(*2*) But the Deputy Commissioner may revise any such order made by any officer subordinate to him, and the Commissioner may revise any such order made by the Deputy Commissioner.

(*3*) Save as provided by this section, every order made under this Regulation shall be final and shall not be liable to be contested by suit or otherwise.

Power to make rules.

9. (*1*) The Local Government may, subject to the control of the Governor General in Council, make rules consistent with the foregoing sections for carrying into effect the purposes of this Regulation.

(*2*) All such rules shall be published in the Burma Gazette and shall thereupon have the force of law.

[1] These words were inserted by the Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896 (IV of 1896), s. 5, printed, *infra*, p. 407.

[2] S. 7A was inserted by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278.

[3] The word "town" was substituted, as from the commencement of Act XIII of 1898, for the word "village", by the Upper Burma Towns Regulation, 1899 (II of 1899), *infra*, p. 455.

This substitution takes effect from the date [4th November, 1898] of the insertion of this section by Act XIII of 1898, *see* s. 2 of Regulation II of 1899.

REGULATION No. II OF 1892.[1]

[*Received the assent of the Governor General on the 22nd March, 1892; published in the* Gazette of India *on the 26th idem; and in the* Burma Gazette *on the 9th April, 1892.*]

A Regulation to amend the Arakan Hills Civil Justice Regulation, 1874.[2]

WHEREAS it is expedient to amend the Arakan Hills Civil Justice Regulation, 1874; It is hereby enacted as follows :— VIII of 1874.

Amendment of section 54 of Reg. VIII, 1874.

1. In section 54 of the Arakan Hills Civil Justice Regulation, 1874, for the word "three" the word "four" shall be substituted.

THE UPPER BURMA C[illegible]TICE REGULATIC

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[1] Short title "The Arakan Hills Civil Justice Regulation (1874) Amendment Regulation, 1892," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *infra*, p. 285.

[2] Printed, *supra*, p. 292.

[3] The words "with the exception of the Shan States" are repealed by implication, *see* the third footnote on p. 373.

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XVII.—Saving of provisions relating to European British subjects.

REGULATION No. V OF 1892.[1]

[*Received the assent of the Governor General on the 28th December, 1892; published in the* Gazette of India *on the 31st December 1892; and in the* Burma Gazette *of the same date.*]

A Regulation to provide for the Administration of Criminal Justice in Upper Burma.

WHEREAS it is expedient to provide for the Administration of Criminal Justice in Upper Burma; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Regulation may be called the Upper Burma Criminal Justice Regulation, 1892; and

(*2*) It shall come into force on the 1st January, 1893.

Application of the Code of Criminal Procedure.

2. (*1*) Subject to the modifications set forth in the schedule to this Regulation, the Code of Criminal Procedure [1898][2], as amended for the time being by subsequent enactments (which Code as so amended is in this Regulation referred to as "the Code"), shall extend to the whole of Upper Burma, * * *[3], so far as it can be made applicable in the circumstances for the time being.

V of 1898.

(*2*) For the purpose of facilitating the application of the Code, any Magistrate or Court may construe any provision therein with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Magistrate or Court.

Notifications, etc., under Code as modified by expired Regulations.

3. All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed, and orders, rules and appointments made, under the Code of Criminal Procedure, 1882, as modified by Regulation VII of 1886 or Regulation VI of 1890, shall, so far as may be practicable, be deemed to have been respectively published, issued,

X of 1882.

[1] The whole of Reg. V of 1892, with the exception of sections I, II, VI, VII, IX, X, XVI and XVII of the Schedule, has been applied to the Kachin Hill Tracts, as regards hill-tribes, by the Kachin Hill-tribes Regulation, 1895 (I of 1895), s. 3, printed, *infra*, p. 381; and with the same exception to tracts in the Chin-Hills, as regards Chins, by the Chin Hills Regulation, 1896 (V of 1896), s. 3, printed, *infra*, p. 410.

[2] The figures "1898" were substituted for the figures "1882," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p 278.

[3] The words "except the Shan States" were repealed by the Burma Laws Act 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *supra*, p. 286.

conferred, prescribed, defined, passed and made under the corresponding provision of the said [1] Code as modified by this Regulation.

SCHEDULE.

MODIFICATIONS SUBJECT TO WHICH THE CODE IS TO EXTEND TO UPPER BURMA [WITH THE EXCEPTION OF THE SHAN STATES.][2]

(*Section 2, sub-section 1.*)

"High Court." (Section 4,* clause (*i*)).

I.—Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the expression "High Court" shall mean the officer appointed by * * * * * * [3] the Governor General in Council to be the Judicial Commissioner of Upper Burma.

Courts of Session. (Sections 7, 9 and 193, and Chapter XXIII.)

II.—(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), each division for the time being administered by a Commissioner shall be a sessions division, the Court of the Commissioner shall be the Court of Session for the sessions division, and the Commissioner shall be the Judge of the Court of Session.

(*2*) The Local Government may, by notification in the official Gazette, exclude any district or part of a district from a sessions division constituted under sub-section (*1*), and may, in like manner, cancel or vary any such notification.

(*3*) While a notification under sub-section (*2*) is in force with respect to any district or part of a district the following consequences shall ensue, namely :—

(*a*) the district or the part of a district, as the case may be, shall be a sessions division, the Court of the District Magistrate shall be the Court of Session for the sessions division, and the District Magistrate shall be the Judge of the Court of Session and,

(*b*) as Judge of the Court of Session, the District Magistrate may take cognizance of any offence as a Court of original jurisdiction without the accused person being committed to him by a Magistrate, and when so taking cognizance of an offence, shall, subject to the provisions of this Regulation, follow the procedure prescribed for the trial of warrant cases by Magistrates.

(*4*) Whenever a notification is published under sub-section (*2*) it shall be

[1] Read now the Code of Criminal Procedure, 1898 (Act V of 1898), *see* the amendment in s. 2 (*1*) *ante*. Act V of 1898 has been declared to be in force in Upper Burma, subject to the provisions of this Regulation, *see* the First Schedule of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 266.

[2] The words "with the exception of the Shan States," are repealed by implication, *see* third footnote on p. 373.

[3] The words "Local Government with the previous sanction of" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, *supra*, p. 291, and the word "the" before "Local Government" has been omitted as redundant.

* *See* now s. 4 (*j*) of Act V of 1898, General Acts, Vol. VI, p. 383.

immediately reported by the Local Government to the Governor General in Council

(5) Subject to such rules[1] as the Local Government may, from time to time, make in this behalf, a trial before a Court of Session may be without jury or aid of assessors.

Conferment of magisterial powers on police-officers. (Section 14.)

III.—Notwithstanding anything in Act V of 1861,[2] or in any other enactment for the time being in force, the Local Government may confer [3] on any police-officer all or any of the powers conferred or conferable by or under the Code on any Magistrate, in regard to particular cases, or to a particular class or particular classes of cases or to cases generally.

Whipping. (Section 32.)

IV.—(1) A Magistrate of any class may pass a sentence of whipping.

(2) A Magistrate of the second class may pass a sentence of whipping without being specially empowered in that behalf by the Local Government.

(3) A Magistrate of the third class shall not pass a sentence of whipping unless he is specially empowered in that behalf by the Local Government.

Powers of Magistrates. (Sections 36 and 37.)

V.—Magistrates described in the first column of the following table shall have the powers severally specified against them in the second column thereof without being further empowered in that behalf:—

Magistrates	Powers.
1	2
Magistrates of the first class . .	To require security for good behaviour, section 110. To make orders as to local nuisances, section 133. To make orders prohibiting repetition of nuisances, section 113. To make orders under section 144.
Magistrates of the first or second class.	[4][To take cognizance of any offence upon information received from any person other than a police-officer or upon his own knowledge or suspicion that such offence has been committed, section 190, sub-section (1), clause (c).] [5][To take cognizance of an offence upon receiving a complaint of facts which constitute such offence, section 190, sub-section (1), clause (a).] [6][To take cognizance of an offence upon a police-report of facts which constitute such offence, section 190, sub-section (1), clause (b).]
Sub-divisional Magistrates . .	To call for records, section 435.

[1] For rules made under this sub-section as to assessors, *see* Burma Gazette, 1894, Pt. I, p. 105.

[2] Printed, General Acts, Vol. I, p. 379.

[3] For notification conferring powers of a Magistrate of the 2nd class on Commandants of Military Police Battalions, *see* Burma Gazette, 1892, Pt. I, p. 76.

[4] These words and figures were substituted for the words and figures "To entertain cases without complaint, section 191, clause (c)," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

[5] These words and figures were substituted for the words and figures "To entertain complaints, section 191," by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule.

[6] These words and figures were substituted for the words and figures "To receive police reports, section 191, clause (b)."

Power to certain police-officers to act under section 55.

VI.—In any police-station to which the provisions of the section[1] may be specially applied by the Local Government by notification in the official Gazette any police-officer may exercise the powers conferred by section 55 on an officer in charge of a police-station.

Detention at certain police-stations. (Sections 57 and 61.)

VII.—(*1*) Notwithstanding anything in section 57 or section 61, an officer in charge of any police-station to which the provisions of this section[1] may be specially applied by the Local Government by notification in the official Gazette may detain a person arrested without warrant so long as under all the circumstances of the case is reasonable.

(*2*) But when the officer of his own authority detains any such person in custody for a longer period than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, he shall state in the report prescribed in section 62 his reasons for prolonging the detention of the person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may by general or special order direct.

Tender of pardon. (Section 337.)

VIII.—A District Magistrate tendering a pardon to an accomplice under section 337 may, notwithstanding anything in that section, try the case himself.

Recording of evidence in cases tried by headmen. (Chapter XXV.)

IX.—Notwithstanding anything in the Code, the Local Government may from time to time make rules[2] with respect to the record to be made in cases tried by such village-headmen as are Magistrates of the third class and as to the disposal of the record.

Appeal from order of District Magistrate in certain cases.

X.—A person convicted on a trial held by a District Magistrate acting as such with respect to a district or part of a district which has been excluded from a sessions division under sub-section (*2*) of section II of this schedule may appeal to the Court of Session of the sessions division from which the district or the part of a district has been so excluded.

Restrictions on appeal. (Sections 413 and 414.)

XI.—Notwithstanding anything in this schedule or in the Code, an appeal shall not lie in any case in which a District Magistrate or Court of Session passes a sentence of imprisonment for a term not exceeding six months or of fine not exceeding five hundred rupees or of whipping, or of all or any of those punishments combined.

Revision. (Sections 435 to 438.)

XII.—(*1*) The District Magistrate may in any case in which he has himself called for, or a Sub-Divisional Magistrate has forwarded to him, the

[1] For notification applying the provisions of this section to certain police-stations, *see* Burma Gazette, 1893, Pt. I, p. 626; *ibid* 1897, Pt. I, p. 600.

[2] For rules regarding the record to be made in cases tried by Thugyis, etc., who are third class Magistrates, *see* Burma Gazette, 1888, Pt. I, p. 310.

record of a proceeding before a Magistrate of the second or of the third class pass such order in the case as he thinks fit :

Provided that he shall not pass a severer sentence for the offence which in his opinion the accused has committed than might have been passed for such offence by the Magistrate who tried the case, and that no order shall be made to the prejudice of the accused unless he has had an opportunity of showing cause against it.

(2) The Governor General in Council or the Local Government may at any time, by notification in the official Gazette, direct that this section shall cease to be in force in any district with effect from a date to be specified in the notification.

Enhancement of punishment on appeal. (Section 423.)

XIII.—In any case in which an appeal lies, the Appellate Court may enhance any punishment which has been awarded :

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

Conduct of prosecutions. (Section 495.)

XIV.—Notwithstanding anything in section 495, a Court may allow any police-officer to conduct a prosecution.

Transfer of cases. (Section 526.)

[1]XIVA.—Notwithstanding anything in section 526, a Court of Session may,—

(*1*) if it is absolutely debarred by section 487 from trying any case committed to it, or by section 556, from hearing any appeal pending before it, direct that such case or appeal be transferred for trial or hearing to any other Criminal Court of equal jurisdiction ;

(2) exercise as regards all Criminal Courts subordinate to its authority all the powers with respect to the transfer of criminal cases and appeals conferred upon the High Court by section 526 :

Provided, first, that an application for the exercise of the power conferred by this section, if founded upon a report of the Judge or Magistrate before whom the case or appeal is pending, need not be supported by affidavit or affirmation :

Provided, secondly, that the Court shall, before directing the transfer of a case or of an appeal under this section, issue a notice to the accused requiring him to show cause on a certain day to be fixed in the notice, why the said case

[1] S. XIVA was added by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278 The original section XIVA, which was added by Regulation V of 1895, was repealed as being part of that Regulation, by Act XIII of 1898. The new section differs from the old in that in sub-section (1), s. 556 is substituted for "555," and in the second and third provisos, respectively, the words "secondly" and "thirdly" for the words "further" and "also."

or appeal should not be transferred to some Court therein named or to such other Court of competent jurisdiction as might be determined :

Provided, thirdly, that the High Court may, on the application of the accused or of the Public Prosecutor, reverse or vary any order made by a Court of Session under this section or substitute any other order in lieu thereof.

Orders not reversible on technical grounds alone. (Section 537.)

XV.—Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered on appeal or revision on account of any irregularity of procedure unless the irregularity has occasioned a failure of justice.

Fees for processes, copies and inspection of records. (Section 554.)

XVI.—Rules under section [1][554, sub-section (2), clause (*c*)] may regulate the following among other matters, namely :—

(*a*) the fees to be paid for processes ; and

(*b*) the fees to be paid for copies and inspection of records.

Saving of provisions relating to European British subjects.

XVII.—Nothing in this schedule with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom or the enchancement or execution thereof, shall be construed to affect the Code in its application to European British subjects.

REGULATION No. VIII OF 1893.

[*Received the assent of the Governor General on the 4th July, 1893 ; published in the* Gazette of India *on the 8th idem ; and in the* Burma Gazette *on the 22nd idem.*]

A Regulation to amend the Arakan Hill District Laws Regulation, 1874.[2]

WHEREAS it is expedient to amend the Arakan Hill District Laws Regulation, 1874,[2] by the substitution of Kuladan for Myouktoung as the station at which declarations of contents of boats are to be made under section 15 of that Regulation, the latter place having been transferred from the Arakan Hill-Tracts District to the Akyab District ; It is hereby enacted as follows :— IX of 1874.

Title.

1. This Regulation may be called the Arakan Hill District Laws Amendment Regulation, 1893.

Amendment of section 15, Reg. IX of 1874.

2. In section 15 of the Arakan Hill District Laws Regulation, 1874, for the word "Myouktoung" the word "Kuladan" shall be substituted.

[1] The figures and words "554, sub-section (2), clause (*c*)" were substituted for the figures and words "553, clause (*c*)," by the Burma Laws Act, 1898 (XIII of 1898), *see* Third Schedule, *supra*, p. 278.

[2] Printed, *supra*, p. 307.

REGULATION No. III OF 1894.[1]

[*Received the assent of the Governor General on the 9th August, 1894; published in the* Gazette of India *on the 11th idem; and in the* Burma Gazette *on the 25th idem.*]

A Regulation to amend the Upper Burma Land and Revenue Regulation, 1889.[1]

III of 1889. WHEREAS it is expedient to amend the Upper Burma Land and Revenue Regulation, 1889; It is hereby enacted as follows :—

III of 1889. 1. After section 49 of the Upper Burma Land and Revenue Regulation, 1889, the following section shall be inserted, namely :— Insertion of new section after section 49, Reg. III, 1889.

[*Vide supra*, p. 361.]

REGULATION No. IV OF 1894.[2]

[*Received the assent of the Governor General on the 16th October, 1894; published in the* Gazette of India *on the 20th idem; and in the* Burma Gazette *on the 3rd November, 1894.*]

A Regulation to amend the Upper Burma Village Regulation, 1887.[3]

XIV of 1887. WHEREAS it is expedient to amend the Upper Burma Village Regulation, 1887[3]; It is hereby enacted as follows :—

For clause (*l*) of section 5 of the said Regulation the following shall be substituted, namely :— Substitution of new clause for clause (*l*), section 5, Reg. XIV, 1887.

[*Vide supra*, p. 335.]

THE KACHIN HILL-TRIBES REGULATION, 1895.

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[2] Short title "The Upper Burma Village Regulation (1887) Amendment Regulation, 1894," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *supra*, p. 286.

[3] Printed, *supra*, p. 332.

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REGULATION No. I OF 1895.[1]

[*Received the assent of the Governor General on the 26th January, 1895; published in the* Gazette of India *on the 2nd February, 1895; and in the* Burma Gazette *on the 16th idem.*]

A Regulation to declare the Law applicable to the Hill-tribes in the Kachin Hill-tracts of Upper Burma.

WHEREAS it is expedient to declare the law applicable to the hill-tribes in the Kachin Hill-tracts of Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent.

1. (*1*) This Regulation may be called the Kachin Hill-tribes Regulation, 1895.

(*2*) It shall come into force on such date as the Local Government, by notification in the Burma Gazette, may appoint.[2]

(*3*) It shall extend to such hill-tracts and shall apply to such hill-tribes as the Local Government, with the previous sanction of the Governor General in

[1] Reg. I of 1895 was extended, under s. 8 (*1*) of the Upper Burma Laws Act, 1886 (XX of 1886) and s. 5 of the Shan States Act, 1888 (XV of 1888), (both Acts are now repealed by the Burma Laws Act, 1898 (XIII of 1898) to the Northern Shan States, with certain modifications, *see* Burma Gazette, 1895, Pt. I, p. 508.

[2] Reg. I of 1895 came into force on the 1st July, 1895, *see* Burma Gazette, 1895, Pt. I, p. 230.

(*2*) Nothing in the Indian Penal Code [1] or in the Criminal Procedure Code,[2] shall apply to any proceedings of a headman acting under the power conferred by this section. XLV of 1860. X of 1882.

Civil jurisdiction of headmen.

7. A headman may try and decide according to local custom any dispute of a civil nature between persons subject to his jurisdiction, and he may enforce his decision in accordance with such custom.

CHAPTER IV.

JURISDICTION AND SPECIAL POWERS OF OFFICERS.

Deputy Commissioner to be Sessions Judge.

8. (*1*) The hill-tracts in any district shall constitute a sessions division, of which the Deputy Commissioner shall be the Sessions Judge.

(*2*) As Judge of a Court of Session the Deputy Commissioner may take cognizance of any offence as a Court of original jurisdiction without the accused being committed to him by a Magistrate, and, when so taking cognizance, shall follow the procedure prescribed for the trial of warrant cases by Magistrates.

High Court.

9. For the purposes of the Code of Criminal Procedure,[2] the Commissioner of the Division shall be the High Court. X of 1882.

Powers which may be conferred on Assistant Commissioners.

10. (*1*) The Local Government may, by notification in the Burma Gazette, invest any Assistant Commissioner with all or any of the powers of a Deputy Commissioner under this Regulation.

(*2*) In any notification under this section the Local Government may define the local limits of the jurisdiction of any such Assistant Commissioner.

Civil jurisdiction.

11. (*1*) The Deputy Commissioner, and every Assistant Commissioner exercising jurisdiction within a hill-tract, may try any suit or other proceeding of a civil nature between parties any one of whom is a member of a hill-tribe according to such procedure as the Local Government may by notification in the Burma Gazette from time to time prescribe,[3] and

(*2*) in the trial of any such suit or proceeding, may exercise any of the powers which he might exercise in a suit or proceeding in which none of the parties belong to a hill-tribe; and

[1] Printed, General Acts, Vol. I, p. 240.

[2] *See* now the Code of Criminal Procedure, 1898 (V of 1898), printed, General Acts, Vol. VI, p. 380. Act V of 1898 was applied to hill-tracts and hill tribes to which the Regulation has been extended and applied, by Notification No. 14, dated the 30th June, 1898, *see* Burma Gazette, 1898, Pt. I, p. 322

[3] For rules prescribed under s. 11 (*1*) regulating the procedure for the trial of suits and other proceedings of a Civil nature, *see* Burma Gazette, 1895, Pt. I, p. 324.

(*3*) in deciding any such suit or proceeding, shall have regard to local custom and to justice, equity and good conscience.

Power to withdraw cases.

12. The Deputy Commissioner may withdraw any civil or criminal case pending before a headman or an Assistant Commissioner, and may either try it himself or refer it for trial to an Assistant Commissioner.

Power to impose fines on villages, etc., for collusion with criminals.

13. (*1*) Subject to the control of the Commissioner, the Deputy Commissioner may impose fines in money or goods on any tribe, clan or village-community, or any part thereof, if after enquiry he finds—

(*a*) that any of its members have colluded with or harboured, or failed to take reasonable means to prevent the escape of, any criminal ;

(*b*) that they have suppressed or combined to suppress evidence in any criminal case ;

(*c*) that, stolen property having been tracked to the village, they have failed or neglected to restore the property or take on the track beyond the limits of the village ;

(*d*) that they have done any act hostile or unfriendly to the Government ;

(*e*) that they have disobeyed the lawful orders of the Deputy Commissioner or of an Assistant Commissioner ;

(*f*) that they have taken part in or abetted an attack on traders or other travellers, or the levy of or attempt to levy unauthorized dues or tolls ;

(*g*) that they have engaged in fighting with any other tribe, clan or village-community.

(*2*) The Deputy Commissioner may order the whole or any part of a fine imposed under this section to be given as compensation to any person to whom damage or injury has been caused, directly or indirectly, by the act in respect of which the fine is imposed.

(*3*) When in pursuance of an order passed under this section a person has received compensation for injury out of the proceeds of a fine, a Civil Court shall not take cognizance of a claim to compensation based on the same injury.

Fines on tribes, etc., in case of murder in their boundaries.

14. When, within the area occupied by any tribe, clan or village-community, a person is dangerously or fatally wounded by unlawful attack, or the body is found of a person believed to have been unlawfully killed, the members of that tribe, clan or community shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not an opportunity of preventing the offence or arresting the offender ; or

(*b*) have used all reasonable means to bring the offender to justice.

Action against disaffected tribe, etc.

15. In the event of any tribe, clan or village acting in a hostile or unfriendly manner to the Government, the Deputy Commissioner may, subject to the control of the Commissioner, detain all or any members of the tribe, clan or village, detain or confiscate their property, and debar members of the tribe, clan or village from access into territory outside the hill-tract and prohibit all other persons from entering the hill-tract.

Penalty for abuse of authority or disobedience of orders by headman.

16. A headman who abuses any of the powers conferred upon him by this Regulation, or neglects to obey any reasonable order of the Deputy Commissioner, shall be liable by order of the Deputy Commissioner to pay a fine not exceeding [1][one hundred and fifty] rupees, or to be suspended or dismissed from office.

Power to decide disputes likely to lead to feuds.

17. When the Deputy Commissioner is satisfied that a dispute exists likely to cause a feud, breach of the peace, or any offence against person or property, he may enquire into the dispute and pass such order as he may think fit, having regard to local custom and to justice, equity and good conscience.

Power to prohibit new villages.

18. (*1*) A new hamlet or village shall not be erected in a hill-tract without the consent of the Deputy Commissioner, who may prohibit the erection thereof if he thinks fit.

(*2*) If the Deputy Commissioner prohibits the erection, he shall record his reasons for doing so.

Power to direct removal of villages.

19. Whenever it may be expedient on military or other grounds, the Deputy Commissioner may, by order in writing, direct the removal of any village to any other site and, with the sanction of the Commissioner, may award to the inhabitants, such compensation for any loss which may have been occasioned to them by the removal of their village as in his opinion is just.

Power to require persons to remove.

20. (*1*) When any person is known or believed to have a feud, or has occasioned any cause of quarrel likely to lead to bloodshed, dakaiti or robbery, the Deputy Commissioner may require that person to reside beyond the limits of the hill-tracts or within those limits at such place as the Deputy Commissioner may deem desirable.

(*2*) No order requiring a person to reside beyond the limits of the hill-tract in which he is living at the time of the order shall be made without the previous sanction of the Commissioner.

Further power to require

[2]**20A.** When the Deputy Commissioner is satisfied that the presence of any person (not being a public servant or a member of a hill-tribe) is injurious

[1] The words "one hundred and fifty" were substituted for the word "fifty," by s. 4 of the Kachin Hill-tribes Regulation (1895) Amendment Regulation, 1898 (I of 1898), printed, *infra*, p. 425.

[2] S. 20A was inserted by s. 5 of the Kachin Hill-tribes Regulation (1895) Amendment Regulation, 1898 (I of 1898).

to the peace and good administration of a hill-tract, he may, for reasons to be recorded by him in writing, order such person to leave the hill-tracts or any specified hill-tract within a given time and not to return thereto. Persons to remove.

21. If a person contravenes the provisions of section 18 or disobeys an order under section 19, or a requisition under section 20, [1][or an order under section 20A] he may, on conviction by a Magistrate, be punished with imprisonment of either description for a term which may extend to six months, and shall also be liable to fine which may extend to one thousand rupees. Penalty for breach of certain orders.

22. When the Deputy Commissioner is of opinion that it is necessary for the purpose of preventing culpable homicide (whether amounting to murder or not), grievous hurt, dakaiti or robbery to require a person to execute a bond for good behaviour, he may order the person to execute a bond with or without sureties for his good behaviour during such period not exceeding three years as the Deputy Commissioner may fix. Security for the prevention of crime.

23. When a feud or other cause of quarrel likely to lead to bloodshed or violence exists or, in the opinion of the Deputy Commissioner, is likely to arise between two tribes, clans, families or village-communities, the Deputy Commissioner may order all or any members of both tribes, clans, families or village-communities, or of either tribe, clan, family or village-community, to execute a bond with or without sureties for their good behaviour during such period not exceeding three years as he may fix. Security from tribes, etc.

24. When an Assistant Commissioner duly authorized under section 10, sub-section (*1*), passes an order under section 22 or under section 23, he shall at once submit a report of his proceedings to the Deputy Commissioner. Report by Assistant Commissioner.

25. (*1*) The commission or attempted commission or abetment, by a person who has given security for good behaviour under section 22, of any offence against person or property shall be a breach of the bond. Breach of bond.

(*2*) If, while a bond executed under section 23 is in force, the life of any member of either tribe, clan, family or village-community is unlawfully taken or attempted, or the property of any member of either tribe, clan, family or village-community is unlawfully taken or attempted to be taken by or with the abetment of any member or members of the other family, the Deputy Commissioner may declare the bond of all or any member of the other tribe, clan, village-community or family and of their sureties (if any) to be forfeited.

26. (*1*) If a person ordered to give security for good behaviour under Imprisonment

[1]These words were inserted by s. 6 of the Kachin Hill-tribes Regulation (1895) Amendment Regulation, 1898 (1 of 1898). *Infra*, p. 425.

In default of security.

section 22 or section 23 does not give security on or before the date on which the period for which the security is to be given begins, he shall be committed to prison or, if he is already in prison, be detained there until that period expires or until within that period he gives security to the officer who made the order, requiring it, or to the officer in charge of the jail in which he is detained.

(*2*) Imprisonment for failure to give security under section 22 or section 23 may be rigorous or simple as the officer requiring the security directs in each case.

Length of imprisonment.

27. When a person has suffered imprisonment for three years for failure to give security for good behaviour under section 22 or 23, he shall be released and shall not be again required to give security unless a fresh order is passed in accordance with the provisions of this Regulation.

Further security.

28. (*1*) A person who has, under the provisions of section 22 or section 23, given security, or been imprisoned for failure to give security, may be brought before the Deputy Commissioner if, on the expiry of the period for which security was required to be given, the Deputy Commissioner so directs.

(*2*) When the Deputy Commissioner thinks it necessary for the purpose of preventing the commission of any offence against person or property to require security for a further period from any person so brought before him, he shall record a proceeding to that effect.

(*3*) The proceeding may be founded on the facts on which the original order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section, but such an order, if passed, shall have the same effect and be enforced in the same manner as an original order to give security under section 22 or section 23.

(*4*) Notwithstanding anything in this section, a person shall not suffer for failure to give security under this Chapter, imprisonment for more than six years or, without the sanction of the Commissioner, for more than three years.

CHAPTER V.

Special Rules as to Arms, Ammunition, Opium and Forests.

Arms and ammunition.

29. (*1*) **The Deputy Commissioner may fix the number of firearms and the quantity and description of ammunition which may be possessed by hill-tribes in any hill-tract or part of a hill-tract and may issue licenses either to persons or to the members of any tribe, clan or village as a class to possess the firearms and ammunition specified in the licenses.**

(Chap. V.—Special Rules as to Arms, Ammunition, Opium and Forests. Secs. 30-31A. Chap. VI.—Rules regarding Taxes and Realization of Fines, etc. Secs. 32-33.)

(*2*) All firearms for which licenses have been issued shall be stamped and entered in a register.

(*3*) Any person who, not being licensed in that behalf, or not being a member of any tribe, clan or village, the members of which have as a class been licensed in that behalf, possesses any firearm or ammunition, or who exports from the hill-tract any firearm or ammunition, shall be punished, on conviction by a Magistrate, with imprisonment which may extend to three years, or with fine, or with both.

(*4*) With the previous sanction of the Local Government, the Commissioner may direct that sub-sections (*1*), (*2*) and (*3*) shall not apply to any tract or part of a hill-tract, and may with the like sanction cancel any direction so made.

VI of 1887.

30. No prosecution under the Upper Burma Forest Regulation, 1887,[1] or any rule made thereunder shall be instituted against a member of a hill-tribe except with the sanction in writing of the Deputy Commissioner. Prosecution under the Forest Regulation 1887.

31. No one shall export opium from a hill-tract except under a license granted by the Deputy Commissioner and on payment of duty at such rate as may be fixed by the Local Government by rule made in this behalf. Any person who contravenes the provisions of this section shall be punished, on conviction, by a Magistrate, with imprisonment which may extend to one year, or with fine, or with both. Opium.

[2][**31A.** Whoever sells foreign fermented liquor or spirit to any member of a hill-tribe shall be punished on conviction by a Magistrate with imprisonment which may extend to three months, or with fine, or with both]. Fermented liquor and spirit.

CHAPTER VI.

Rules regarding Taxes and Realization of Fines, etc.

32. Taxes shall be levied on all hill-tribes, clans and villages at such rates and in such manner as the Local Government may from time to time sanction. Taxes.

33. (*1*) An order for the payment of any fine or tax, or for the delivery of any property, or the performance of any act, may be enforced (1) by the seizure of any moveable property, or of any standing crops belonging to the Mode of recovering fines, taxes, etc.

[1] *See* now the Upper Burma Forest Regulation, 1898 (V of 1898), printed, *infra*, p. 430.

[2] S. 31A. was inserted by s. 7 of the Kachin Hill-tribes Regulation (1895) Amendment Regulation, 1898 (I of 1898). Printed, *infra*, p. 425.

person against whom the order is made, or when the order is made against a tribe, clan, family or village-community, to any member thereof, or (2) under the order of the Deputy Commissioner or Assistant Commissioner by imprisonment of the person against whom the order is made for a term not exceeding one year.

(*2*) Imprisonment under this section shall be simple only.

CHAPTER VII.

CONTROL.

Prohibition of appeals.

34. There shall be no appeal against any order passed by a headman or by any officer acting under this Regulation.

Control and revision.

35. (*1*) All headmen and all officers in a hill-tract shall be subordinate to the Deputy Commissioner, who may revise any order passed by any such headman or officer, including an Assistant Commissioner, specially empowered under section 10, sub-section (*1*).

(*2*) The Commissioner may revise any order passed by the Deputy Commissioner, or by any other officer in a hill-tract, or by a headman, and the Chief Commissioner may revise any order passed by the Commissioner.

Power of Local Government to make rules.

36. (*1*) Subject to the control of the Governor General in Council, the Local Government may, by rules[1] which it is hereby empowered to make,—

(*a*) prescribe the procedure to be observed by officers acting under this Regulation;

(*b*) prescribe the use of such forms and require the submission of such reports and statements and the maintenance of such records and registers as it may think necessary.[2]

(*2*) Subject to the same control, the Local Government may also make other rules consistent with this Regulation for carrying into effect the purposes thereof.

Proceedings under Regulation not to be questioned.

37. Except as provided in this Regulation, a decision passed, act done or order made under this Regulation, shall not be called in question in any Civil or Criminal Court.

[1] For rules framed under s. 36, *see* Burma Rules Manual, Ed. 1897, pp. 231 to 237, and Burma Gazette, 1897, Pt. I, p. 503, *ibid* 1898, Pt. I, p. 364.

[2] For notifications prescribing registers, reports and statements to be maintained and submitted, *see* Burma Gazette, 1898, Pt. I, p. 380.

THE SCHEDULE.

(*See section 3.*)

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES.

No. and Year.	Subject.	Extent of application.	Modifications.
		1.—Acts.	
[1]V of 1843 .	Slavery . .	So much as may from time to time be in force in Upper Burma.	
[2]XI of 1857 .	State-offences .	So much as may from time to time be in force in Upper Burma.	
[3]XLV of 1860 .	Penal Code .	So much as may from time to time be in force in Upper Burma.	For the last forty-seven words of section 67 read the following :— "for any term not exceeding four months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding eight months when the amount shall not exceed one hundred rupees, and for any term not exceeding twelve months in any other case." After section 75 insert the following :— "75A. Notwithstanding anything in this Code or in any other enactment for the time being in force, a person convicted of any offence punishable under this Code or under any other enactment shall be punishable with fine in lieu of or in addition to any other punishment to which he may be liable" Omit the clauses of section 64 inserted by Act VIII of 1882

[1]Printed, General Acts, Vol. I, p. 45.
[2] Printed, General Acts, Vol. I, p. 121.
[3] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

(*The Schedule.—Enactments deemed applicable to Hill-tribes.*)

THE SCHEDULE—*continued.*

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES—*continued.*

No and Year	Subject	Extent of application	Modifications
[1]VI of 1864 .	Whipping .	So much as may from time to time be in force in Upper Burma	Substitute for section 6 the following :— "Notwithstanding anything in the foregoing sections of this Act, a person convicted of any offence may be punished with whipping in lieu of or in addition to any other punishment to which he may be liable."
[2] * * *	* * *	* * *	* * *
[3]I of 1872 .	Evidence . .	So much as may from time to time be in force in Upper Burma	
[4] * * *	* * *	* * *	* * *
[2] * * *	* * *	* * *	* * *
	2.—Regulations.		
[5]Bengal Regulation III of 1818.	State-prisoners .	So much as may from time to time be in force in Upper Burma	
[6]VI of 1887 .	Forests . .	So much as may from time to time be in force in Upper Burma.	
IX of 1887 .	Frontier Crossing	So much as may from time to time be in force in Upper Burma.	
XII of 1887 .	Rubies . .	So much as may from time to time be in force in Upper Burma.	

[1] Printed, General Acts, Vol. I, p. 429.

[2] The entries relating to the General Clauses Acts, 1868 (I of 1868) and 1887 (X of 1887), have been omitted, as the Acts have been repealed by the General Clauses Act, 1897 (X of 1897), which was declared applicable by Notification No. 6, dated 16th February, 1899, *see* Burma Gazette, 1899, Pt. I, p. 83.

[3] Printed, General Acts, Vol. II, p. 215.

[4] The entry relating to the Criminal Procedure Code, 1882 (X of 1882), has been omitted, as the Act has been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), which was declared applicable by Notification No. 14, dated 30th June, 1898, Burma Gazette, 1898, Pt. I, p. 322

[5] Printed, *supra*, p. 1.

[6] Repealed in Upper Burma generally, by the Upper Burma Forests Regulation, 1898 (V of 1898), printed, *infra*, p. 430.

THE SCHEDULE—*concluded.*

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES—*concluded.*

No. and year.	Subject.	Extent of application.	Modifications.
V of 1892	Criminal Justice.	The whole, except sections I, II, VI, VII, IX, X, XVI, and XVII of the Schedule.	

REGULATION No. II OF 1895.[1]

[*Received the assent of the Governor General on the 13th June, 1895; published in the* Gazette of India *on the 15th idem; and in the* Burma Gazette *on the 29th idem.*]

A Regulation to amend the Upper Burma Land and Revenue Regulation, 1889.[2]

III of 1889.

WHEREAS it is expedient to amend the Upper Burma Land and Revenue
III of 1889. Regulation, 1889; It is hereby enacted as follows :—

Amendment of section 4, Reg. III, 1889.

1. In sub-section (*3*) of section 4 of the Upper Burma Land and Revenue
III of 1889. Regulation, 1889,[2] after the word "Myoôk," the words "Superintendent of Land Records" shall be inserted.

Addition to section 24, Reg. III, 1889.

2. To section 24 of the said Regulation the following shall be added, namely :—

[*Vide supra*, p. 353.]

THE UPPER BURMA CIVIL COURTS REGULATION. 1896.

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CHAPTER I.

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SECTIONS.

1. Title, extent and commencement.
2. Repeal of Regulations.
3. Definitions.

[1] Short title "The Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1895," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *supra*, p. 285.
[2] Printed, *supra*, p. 344.

CHAPTER II.

LAW TO BE ADMINISTERED AND PROCEDURE TO BE FOLLOWED.

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THE SCHEDULE.

REGULATIONS REPEALED.

REGULATION No. I OF 1896.

[*Received the assent of the Governor General on the 3rd February, 1896; published in the* Gazette of India, *1896, Pt. I, p. 76; and in the* Burma Gazette, *1896, Pt. II, p. 51.*]

A Regulation to amend the law relating to Civil Courts and the administration of Civil Justice in Upper Burma.

WHEREAS it is expedient to amend the law relating to Civil Courts and the administration of civil justice in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Civil Courts Regulation, 1896.

(*2*) It extends to the whole of Upper Burma, * * * * [1] but the Local Government may at any time, by notification, exempt from its operation any tract or district, and, so long as any such notification is uncancelled, nothing herein contained shall be deemed to apply to a tract or district specified in such notification.

(*3*) It shall come into force at once.

Repeal of Regulations.

2. (*1*) The Regulations mentioned in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

[1] The words "except the Shan States" were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, printed, *supra*, p. 286.

(*2*) Any enactment or document referring to any of the Regulations in that schedule shall, so far as may be, be construed as referring to this Regulation or to the corresponding portion thereof; and

(*3*) All rules, orders and appointments made, limits fixed, directions given, powers and jurisdiction conferred, lists, tables and notifications published, and seals, forms, registers, books, accounts, statements and returns prescribed, under any of the said Regulations shall, so far as may be, be deemed to have been respectively made, fixed, given, conferred, published and prescribed under this Regulation.

(*4*) No trial had, decree made, order passed or proceeding taken by any Court before the day on which this Regulation comes into force, shall, if not invalid before that day, become invalid by reason of any repeal effected by this Regulation.

Definitions.

3. In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "land-suit" means any suit relating to immoveable property, or to any right or interest in immoveable property:

(*2*) "value," used with reference to a suit, means the amount or value of the subject-matter of the suit:

(*3*) "notification" means a notification in the local official Gazette:

(*4*) "Judge" means the presiding officer of a Court.

CHAPTER II.

LAW TO BE ADMINISTERED AND PROCEDURE TO BE FOLLOWED.

4. [*Law to be administered by Courts under this Regulation.*] *Rep. by the* [1] *Burma Laws Act, 1898 (XIII of 1898), s. 18 and 5th Schedule.*

Certain suits triable with the aid of assessors.

5. Any suit in which any question regarding succession, inheritance, marriage or caste or any religious usage or institution is involved, may be heard with the aid of assessors selected by the Court. The opinion of the assessors upon such question shall be recorded in the proceedings, but the decree or order shall be according to the judgment of the Judge.

Procedure to be followed.

6. Subject to the provisions hereinafter contained, the Code of Civil Procedure,[2] as amended for the time being by subsequent enactments, shall extend to the area to which this Regulation for the time being applies. V of 1882.

[1] Printed, *supra*, p 286.
[2] Printed, General Acts, Vol. IV, p. 262.

(*Chap. II.—Law to be administered and Procedure to be followed. Sec. 7.*
Chap. III.—The Civil Courts and their Jurisdiction. Secs. 8-9.)

Prior proceedings not affected.

7. Nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of January, 1896, or any proceedings after decree that may have been commenced and were still pending at that date.

CHAPTER III.

The Civil Courts and their Jurisdiction.

Grades of Civil Courts.

8. (*1*) Besides Courts established under the Provincial Small Cause Courts Act, 1887,[1] or under any other enactment for the time being in force, there shall be five grades of Civil Courts in Upper Burma, namely :—

IX of 1887.

(i) the Court of the Judicial Commissioner ;

(ii) the Divisional Court ;

(iii) the District Court ;

(iv) the Sub-divisional Court ; and

(v) the Township Court.

The Court of the Judicial Commissioner shall be of the highest grade, and every other Court mentioned in the above list shall be of a lower grade than the Court mentioned immediately above it and shall be subordinate to all Courts above it in the list.

(*2*) The general superintendence and control over all other Civil Courts shall be vested in the Court of the Judicial Commissioner.

(*3*) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the Divisional Court shall superintend and control all other Civil Courts in the local area within its jurisdiction and, subject as aforesaid and to the control of the Divisional Court, the District Court shall superintend and control all other Civil Courts in the local area within its jurisdiction.

Areas of jurisdiction of the Courts.

9. (*1*) The Court of the Judicial Commissioner shall be established for and shall exercise its jurisdiction throughout the area to which this Regulation for the time being applies.

(*2*) For every area constituted a division for revenue and administrative purposes the Local Government shall establish a Divisional Court, which shall exercise its jurisdiction throughout such area.

(*3*) For every area constituted a district for revenue and administrative

[1] Printed, General Acts, Vol. V, p. 128.

purposes the Local Government shall establish a District Court, which shall exercise its jurisdiction throughout such area.

(*4*) For every area constituted a subdivision for revenue and administrative purposes the Local Government shall establish a Sub-divisional Court, which shall exercise its jurisdiction throughout such area.

(*5*) For every area constituted a township for revenue and administrative purposes the Local Government shall establish a Township Court, which shall exercise its jurisdiction throughout such area:

Provided that, unless the Local Government thinks fit, no Township Court and no Sub-divisional Court shall be established for the Mandalay Township and the Mandalay Sub-division of the Mandalay District.

Ordinary original jurisdiction of the Courts

10. Subject to the provisions of the Code of Civil Procedure,[1] the Provincial Small Cause Courts Act, 1887,[2] and any special enactment for the time being in force,— XIV of 1882. IX of 1887.

(*1*) the Township Court shall have jurisdiction to hear and determine any suit of a value not exceeding five hundred rupees;

(*2*) the Subdivisional Court shall have jurisdiction to hear and determine any suit of a value not exceeding three thousand rupees;

(*3*) the District Court shall have jurisdiction to hear and determine any suit without restriction as regards the value.

Power to invest certain Courts with Small Cause Court powers.

11. The Local Government may, by notification, invest any District, Sub-divisional or Township Court with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,[2] up to such value, not exceeding one hundred rupees in the case of a Township Court or five hundred rupees in the case of a Sub-divisional Court or District Court, as it thinks fit, and may, by notification, withdraw any jurisdiction so conferred. IX of 1887.

Appellate jurisdiction of the Courts.

12. (*1*) The Court of the Judicial Commissioner shall have all the powers of a High Court not established under the Statute 24 and 25 Victoria, Chapter 104,[3] and shall be the Court of final appellate jurisdiction throughout the area to which this Regulation for the time being applies.

(*2*) Subject to the provisions of the Code of Civil Procedure,[1] the Provincial Small Cause Courts Act, 1887,[2] and any special enactment for the time being in force, the Courts to which appeals are hereinafter declared to lie, shall respectively have authority to hear appeals from the decrees and XIV of 1882. IX of 1887.

[1] Printed, General Acts, Vol. IV, p. 262.
[2] Printed, General Acts, Vol. V, p. 128.
[3] The Indian High Courts Act, 1861, printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

orders of the Courts subordinate to them passed in the exercise of their original jurisdiction.

(*3*) (*a*) An appeal from a decree of a Subdivisional Court and of a Township Court shall lie to the District Court.

(*b*) An appeal from a decree of a District Court shall, when the value of the suit in such Court is ten thousand rupees or upwards, lie to the Court of the Judicial Commissioner, and in any other case to the Divisional Court, unless the Local Government shall, by notification, specially direct that appeals from original decrees and orders of any specified District Court shall lie to the Court of the Judicial Commissioner, in which case an appeal from such decree or order of a Court specified in the notification shall, so long as the notification is uncancelled, lie to the Court of the Judicial Commissioner.

[1] [(*4*) The period of limitation for an appeal to the Divisional Court under clause (*b*) of sub-section (*3*) shall be sixty days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877].[2]

XV of 1877.

Second appeals to the Court of the Judicial Commissioner.

13. In addition to the grounds on which an appeal will lie under section 584 of the Code of Civil Procedure,[3] an appeal shall lie to the Court of the Judicial Commissioner from decrees passed in appeal by any subordinate Court on any ground which would be a good ground of appeal from a decree passed by any Court in the exercise of its original jurisdiction when—

XIV of 1882.

(i) the value of the original suit exceeds one thousand rupees ; or

(ii) the suit is a land-suit ; or

(iii) the decree varies, modifies or reverses the original decree otherwise than as to costs merely.

[4] [The period of limitation for an appeal to the Court of the Judicial Commissioner under this section shall be ninety days, and in the computation of that period and in all other respects the limitation of the appeal shall be governed by the provisions of the Indian Limitation Act, 1877].[2]

XV of 1877.

Special revisional powers of the Court of the

14. (*1*) The Court of the Judicial Commissioner may, of its own motion or on the application of any party, call for the record of any suit, proceeding appeal in a subordinate Court in which no appeal lies to it, or in which

[1] This sub-section was added to s. 12, by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278. It was first inserted by Reg. VI of 1896, which is now repealed by Act XIII of 1898.

[2] *See* now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

[3] Printed, General Acts, Vol. IV, p. 262.

[4] This paragraph was added to s. 13, by the Burma Laws Act, 1898 (XIII of 1898), *see* the Third Schedule, printed, *supra*, p. 278. It was first inserted by Reg. VI of 1896, which now repealed by Act XIII of 1898.

Judicial Commissioner.

for cause shown to its satisfaction an appeal has not been preferred within the time limited therefor.

(*2*) A Divisional Court may call for the record of any suit, appeal or proceeding in any Court subordinate to it, and a District Court may call for the record of any suit or proceeding in any Court subordinate to it, and may refer the case for the orders of the Court of the Judicial Commissioner.

(*3*) In any case which comes before the Court of the Judicial Commissioner under the provisions of sub-section (*1*) or sub-section (*2*), the Court of the Judicial Commissioner may, if there has been an error material to the merits of the case, pass such judgment, decree or order therein as it thinks fit.

Powers of District Court to distribute business.

15. In addition to the powers conferred on District Courts by section 25 of the Code of Civil Procedure,[1] a District Court may, by general or special order, direct that any case, or class of cases, which may be instituted in such Court or in any Court subordinate thereto, shall be disposed of by an Additional Judge of such Court or by any other Court subordinate to the District Court or by an Additional Judge of any such subordinate Court, as the case may be: XIV of 1882.

Provided that no direction under this section shall empower any Court to exercise jurisdiction in cases beyond the pecuniary limits of its proper jurisdiction.

Continuance of jurisdiction of abolished Courts.

16. (*1*) Where any Court under this Regulation has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred.

(*2*) Nothing in this section applies to cases for which provision is made in section 623 or 649 of the Code of Civil Procedure[1] or in any other enactment for the time being in force. XIV of 1882.

Judges of the Courts.

17. (*1*) The Judicial Commissioner of Upper Burma shall be the Judge of the Court of the Judicial Commissioner. He shall be appointed, and may be removed, by the Governor General in Council.

(*2*) The officer for the time being in charge of a division shall be the Judge of the Divisional Court established in such division.

(*3*) The officer for the time being in charge of a district shall be the Judge of the District Court established in such district.

(*4*) The officer for the time being in charge of a sub-division shall be the Judge of the Sub-divisional Court established in such sub-division.

[1] Printed, General Acts, Vol. IV, p. 262.

(*5*) The officer for the time being in charge of a township shall be the Judge of the Township Court established in such township.

Additional Judges.

18. The Local Government may, whenever it shall think it necessary or expedient so to do, appoint an Additional Judge or Additional Judges to any Court established under this Regulation, and any officer so appointed an Additional Judge shall exercise the jurisdiction of the Court to which he is appointed, subject, however, to any general or special orders of the Local Government as to the class or value of suits or appeals which he or officers of his rank or grade may try, hear and determine.

Additional Judges of more Courts than one.

19. An officer may be appointed an Additional Judge of one or more Courts, and an officer who is a Judge in one Court may be appointed an Additional Judge in another Court or in other Courts.

Judges not to try cases, etc., in which they are personally interested.

20. (*1*) No Judge or Additional Judge of a Civil Court shall try any suit, appeal or other proceeding to which he is a party, or in which he is personally interested.

(*2*) When any such suit, appeal or other proceeding comes before any Judge, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference, and such superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.[1]

XIV of 1892.

(*3*) When any such suit, appeal or other proceeding comes before an Additional Judge, he shall forthwith transmit the record of the case to the Judge of the Court, who shall hear and determine the case.

(*4*) When any such appeal or other proceeding comes before the Judicial Commissioner, he shall report the case for the orders of the Local Government, which may thereupon appoint an Additional Judge of the Court of the Judicial Commissioner to hear and determine the appeal or other proceeding.

Place of sitting.

21. Every Civil Court shall be held at such place or places as the Local Government may, by notification, direct or, in the absence of any such direction, at any place within the local limits of the Court's jurisdiction which the Judge or Additional Judge of the Court thinks fit.

Seal.

22. Every Civil Court shall use a seal, of such form and dimensions as the Local Government may prescribe, on all processes and orders issued by it and on all decrees passed by it.

Provision for pending and past Proceedings.

Transfer of

23. Every proceeding pending in any Civil Court in Upper Burma at

[1] Printed, General Acts, Vol. IV, p. 262.

pending cases.

the time of the passing of this Regulation shall be transferred, or be deemed to be transferred, to the Court under this Regulation which would have had jurisdiction in the matter if this Regulation had been in force on the date on which the proceeding was instituted, and the Court to which any such proceeding is transferred, shall proceed to try, hear and determine the matter as if it had been instituted in such Court :

Provided that nothing herein contained shall be taken to extend the period of limitation to which any suit or appeal may be subject.

Execution of, and appeals from, past decrees and orders.

24. All decrees passed and orders made previous to this Regulation coming into force by a Court mentioned in the first column of the following table shall, for purposes of execution and of appeal and otherwise, be deemed to have been passed or made by the Court set opposite to it in the second column of such table exercising jurisdiction over the area in which the Court in the first column had jurisdiction, and every decree which prior to such time shall have been sent for execution to a Court mentioned in the first column, shall be deemed to have been sent for execution to the corresponding Court in the second column exercising jurisdiction over the same area :—

1	2
The Court of the Judicial Commissioner	The Court of the Judicial Commissioner.
The Court of the Commissioner	The Divisional Court.
The Court of the Deputy Commissioner	The District Court.
The Civil Court of Mandalay	The District Court.
The Court of the Sub-divisional Officer	The Sub-divisional Court.
The Court of the Township Officer	The Township Court.

CHAPTER IV.

ADVOCATES.

Licensing of Advocates by Judicial Commissioner.

25. (*1*) No person shall be permitted to appear, plead or act as an Advocate in the Court of the Judicial Commissioner or in any Court, whether Civil or Criminal, subordinate thereto unless such person has been licensed thereto by the Judicial Commissioner, either generally or specially.

(*2*) The Judicial Commissioner may, with the previous sanction of the Local Government, make rules[1] for the qualification and admission of proper persons to appear, plead or act as Advocates in such Courts, and for the suspension or dismissal of any such Advocates who are guilty of fraudulent or grossly improper conduct.

[1] For instances of such rules, *see* Burma Laws List, Ed. 1897, Pt. III (*2*), p. 51.

(*3*) Such rules may also provide for the issue of licenses to Advocates on payment of such fees and to be current for such time as the Judicial Commissioner may prescribe.

Penalty for contravening the provisions of this Chapter or the rules made thereunder.

26. Any person appearing, pleading or acting in any Court in contravention of the foregoing provisions of this chapter, or any rules made thereunder, shall be liable, by order of the Court, to a fine which may extend to five hundred rupees.

Control and taxation of fees of Advocates.

27. The fees to be received by any Advocate for business done in any Court under this Regulation shall at all times be subject to the control and taxation of the presiding Judge, and no such fees shall be recoverable unless they have been allowed on taxation by the Judge or such officer as he appoints in this behalf.

Rules as to fees of Advocates.

28. The Judicial Commissioner may make rules regulating the fees payable to Advocates in his Court and in the Courts subordinate thereto.

Penalty for giving or receiving commission.

29. Whoever commits any of the following offences, namely :—

(*a*) solicits or receives from any Advocate any gratification in consideration of procuring or having procured his employment in any legal business ;

(*b*) retains any gratification out of remuneration paid or delivered, or agreed to be paid or delivered, to any Advocate for such employment ;

(*c*) being an Advocate, tenders, gives or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other Advocate ;

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER V.

Rules and Orders.

Power to make rules.

30. (*1*) The Judicial Commissioner may, with the previous sanction of the Local Government, make rules consistent with this Regulation for—

(*a*) prescribing the fees to be paid for processes[1] ;

(*b*) regulating the travelling and other expenses of witnesses and assessors ;

(*c*) providing for the making of copies and translations, the inspection of records,[2] and the fees to be charged therefor ;

[1] For rules under s. 30 (*a*), *see* Burma Gazette, 1896, Pt. IV, p. 374.
[2] For rules as to inspection of records, *see* Burma Gazette, 1890, Pt. I, p. 535.

(*d*) determining in what cases persons practising in the Courts shall be permitted to address the Courts in English;

(*e*) conferring and imposing on the ministerial officers of the Courts such powers and duties of a non-judicial or *quasi*-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;

(*f*) declaring what persons shall be permitted to practise as petition-writers in the Courts and regulating the conduct of persons so practising.

(*2*) Whoever breaks any rule made under sub-section (*1*) shall be punished with fine which may extend to fifty rupees.

Compliance with requisitions of Local Government.

31. The Judicial Commissioner shall comply with any requisitions which the Local Government may make for records of or papers belonging to any Court in Upper Burma, or for certified copies of, or extracts from, those records or papers, or for returns, statements or reports.

Process-serving establishments.

32. The Local Government may, with the previous sanction of the Governor General in Council, make rules[1] with respect to the establishments to be maintained for the service and execution of processes issued by Criminal, Civil and Revenue Courts and authorities, and may declare rules so made to be in supersession of any rules made under the Court-fees Act, 1870,[2] or the Upper Burma Land and Revenue Regulation, 1889.[3] VII of 1870. III of 1889.

CHAPTER VI.

MISCELLANEOUS.

Registrar.

33. A Registrar shall be appointed for the Court of the Judicial Commissioner, and the Judicial Commissioner may by written order direct that the Registrar shall exercise such powers and discharge such duties of a non-judicial or *quasi*-judicial nature as the Judicial Commissioner thinks fit.

Holidays.

34. (*1*) The Judicial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette, before the commencement of each calendar year, a list of days to be observed in that year as holidays in the Courts of Upper Burma.

(*2*) A judicial act done by a Court on a day specified in the list as a day to be observed by the Courts as a holiday shall not be invalid by reason only of its having been done on that day.

[1] For instances of such rules, *see* Notification No. 335, Burma Gazette, 1898, Pt. I, p. 643 and Burma Gazette, 1899, Pt. IV, pp. 105 and 114.

[2] Printed, General Acts, Vol. II, p. 124.

[3] Printed, *supra*, p. 344.

Language of Courts.

35. Plaints may be written and evidence may be taken down in such language or languages as the Local Government directs in this behalf.

Court-fees in revision cases.

VII of 1870.

36. In the application to Upper Burma of the first schedule to the Court-fees Act, 1870,[1] after article 14 the following shall be inserted, namely :—

Number.		Proper fee.
15. Application to the Court of the Judicial Commissioner, Upper Burma, for the exercise of its revisional jurisdiction under section 622 of the Code of Civil Procedure[2] or section 25 of the Provincial Small Cause Courts Act, 1887,[3] or section 14 of the Upper Burma Civil Courts Regulation, 1896.	When the amount or value of the subject-matter in dispute does not exceed twenty-five rupees.	Two rupee
	When such amount or value exceeds twenty-five rupees.	The fee leviable on a memorandum of appeal.

Recognized agents.

XIV of 1882.

37. Section 37[4] of the Code of Civil Procedure shall be read as if the words "or to Upper Burma" were added after the words "Central Provinces."

Publication of rules.

38. Rules made under this Regulation shall be published in the local official Gazette.

THE SCHEDULE.

REGULATIONS REPEALED.

Number and year.	Title of Regulations.	Extent of repeal.
Regulation VIII of 1886.	The Upper Burma Civil Justice Regulation, 1886.	So much as has not already been repealed.
Regulation X of 1887.	The Upper Burma Stamps and Limitation Regulation, 1887.	The preamble from "And whereas it is expedient to determine" to "now in force in Upper Burma." Sections 3, 4, 5, 6 and 7.
Regulation VII of 1890.	Amending the Upper Burma Civil Justice Regulation, 1886.	So much as has not already been repealed.
Regulation I of 1891.	Amending the Upper Burma Civil Justice Regulation, 1886, and other Regulations.	Parts I and II, sections 1 to 10.

[1] Printed, General Acts, Vol. II, p. 124.
[2] Printed, General Acts, Vol. IV, p. 262.
[3] Printed, General Acts, Vol. V, p. 128.
[4] For persons appointed recognized agents under s. 37 of the Code of Civil Procedure Act XIV of 1882) as amended by this section, *see* Burma Gazette, 1891 and 1897, Pt. I, pp. 320 and 150, respectively.

REGULATION No. II OF 1896.

[*Received the assent of the Governor General on the 5th March, 1896 ; published in the* Gazette of India, *1896, Pt. I, p. 156 ; and in the* Burma Gazette, *1896, Pt. II, p. 151.*]

A Regulation to amend the Law for the Suppression of Crime on the Frontiers of Upper Burma and the Hill District of Arakan.

WHEREAS it is expedient to amend the law for the suppression of crime on the frontiers of Upper Burma and the Hill District of Arakan ; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Burma Frontier Tribes Regulation, 1896.

(*2*) It extends to the Upper Chindwin, Pakokku and Minbu Districts and to the Hill District of Arakan ; and

(*3*) It shall come into force at once.

Definitions.

2. In this Regulation,—

(*1*) " clan " means any sub-division or section of a tribe ; and

(*2*) " village " means village-community and includes a group of villages.

Blockade of disaffected tribe.

3. In the event of any frontier tribe, clan or village acting in a hostile or unfriendly manner to the British Government or raiding on any other frontier tribe, clan or village under the protection of the British Government, the Deputy Commissioner may, with the sanction of the Commissioner and subject to the control of the Local Government, detain all or any members of the hostile or unfriendly tribe, clan or village, detain or confiscate their property, debar members of the tribe, clan or village from access into British territory and prohibit British subjects from all intercourse with the tribe, clan or village.

Notice of blockade.

4. No action shall be taken in the case of any tribe, clan or village under section 3 until after the Deputy Commissioner shall have, in such manner as the Local Government may, by general or special order, direct, specified by name, and indicated the position of, the tribe, clan or village against which action is to be taken, and prescribed the limits in British India beyond which members of the tribe, clan or village shall be debarred from passing.

REGULATION No. IV OF 1896.[1]

[*Received the assent of the Governor General on the 13th July, 1896; published in the* Gazette of India, *1896, Pt. I, p. 509; and in the* Burma Gazette, *1896, Pt. II, p. 321.*]

A Regulation to amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891.

XIV of 1887. III of 1889. VI of 1891.

WHEREAS it is expedient to amend the Upper Burma Village Regulation, 1887, the Upper Burma Land and Revenue Regulation, 1889, and the Upper Burma Towns Regulation, 1891; It is hereby enacted as follows:—

Upper Burma Village Regulation, 1887.

XIV of 1887.

1. (*1*) In section 5 of the Upper Burma Village Regulation, 1887, for clause (*g*) the following shall be substituted, namely:— Amendment of section 5, Reg. XIV, 1887.

[*Vide, supra*, p. 334.]

(*2*) In clause (*j*) of the said section the words "cultivation or" shall be omitted.

2. After section 8A of the said Regulation the following section shall be inserted, namely:— Insertion of new section after section 8A, Reg. XIV, 1887.

[*Vide, supra*, p. 338.]

3. After section 16 of the said Regulation the following sections shall be inserted, namely:— Insertion of new sections after section 16, Reg. XIV, 1887.

[*Vide, supra*, p. 340.]

Upper Burma Land and Revenue Regulation, 1889.

III of 1889.

4. Sub-clause (iv) of clause (*2*) of section 53 of the Upper Burma Land and Revenue Regulation, 1889, is hereby repealed. Repeal of sub-clause (iv) of clause (*2*), s. 53, Reg. III, 1889.

Upper Burma Towns Regulation, 1891.

VI of 1891.

5. In sections 6 and 7 of the Upper Burma Towns Regulation, 1891, after the word "liable" in each section the words "on conviction by a Magistrate" shall be inserted. Amendment of sections 6 and 7, Reg. VI, 1891.

[1] Short title "The Upper Burma Villages, Towns and Land-revenue Law Amendment Regulation, 1896," *see* the Burma Laws Act, 1898 (XIII of 1898), Fourth Schedule, printed, *supra*, p. 285.

THE CHIN HILLS REGULATION, 1896.

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REGULATION V OF 1896.

[*Received the assent of the Governor General on the 13th August, 1896; published in the* Gazette of India, *1896, Pt. I, p. 609; and* Burma Gazette, *1896, Pt. II, p. 261.*]

A Regulation to declare the law applicable in the Chin Hills of Upper Burma.

WHEREAS it is expedient to declare the law applicable in the Chin Hills of Upper Burma; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, commencement and extent.

1. (*1*) This Regulation may be called the Chin Hills Regulation, 1896.

(*2*) It shall come into force on such date as the Local Government may, by notification in the Burma Gazette, appoint.[1]

(*3*) This section and section 3 shall extend to the whole of the Chin Hills. The rest of this Regulation shall extend only to such tracts in the Chin Hills as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the Burma Gazette, direct.[2]

Definitions.

2. (*1*) In this Regulation, unless there is anything repugnant in the subject or context, the expression—

"Superintendent" includes any officer whom the Local Government may invest with the powers of a Superintendent under this Regulation:

(*2*) "Assistant Superintendent" includes any officer whom the Local Government may invest with the powers of an Assistant Superintendent under this Regulation:

(*3*) "Chins" includes (*a*) Lushais, (*b*) Kukis, (*c*) Burmans domiciled in the Chin Hills, and (*d*) any persons who have adopted the customs and language of the Chins and are habitually resident in the Chin Hills:

(*4*) "clan" means any sub-division or section of Chins, and includes a group of clans:

(*5*) "village" includes—

(*a*) a village-community;

(*b*) village-lands;

(*c*) rivers passing through or by village-lands; and

(*d*) a group of villages: and

[1] The Regulation came into force on 1st June, 1897, Burma Gazette, 1897, Pt. I, p. 210.

[2] For notification under this sub-section extending the Regulation to tracts in the Chin Hills, *see* Burma Gazette, 1897, 1898, Pt. I, pp. 210 and 322.

(*6*) "headman" means the chief or head of any clan or village inhabited by Chins, and includes a council of chiefs or elders.

CHAPTER II.

LAW APPLICABLE IN THE CHIN HILLS.

Laws applicable to Chins.

3. (*1*) This Regulation and the enactments in the schedule, to the extent and with the modifications therein set forth, shall be deemed to be the only enactments which apply to any tract in the Chin Hills to which section 2 and sections 4 to 41 (both inclusive) may be extended by a notification under section 1, sub-section (*3*).

(*2*) No other enactments shall be deemed to apply to Chins in the Chin Hills:

Provided that the Local Government, with the previous sanction of the Governor General in Council, may, by notification [1] in the Burma Gazette, declare any other enactment to be applicable wholly or to the extent or with the modifications which may be set forth in the notification.

4. (*1*) So far as regards persons other than Chins, the law in force in the Chin Hills shall, subject to the provisions of sub-sections (*4*) and (*5*), be the law for the time being in force in Upper Burma exclusive of the town of Mandalay.

(*2*) For the purposes of any enactment in force in the Chin Hills in pursuance of the provisions of sub-section (*1*), the Superintendent shall be deemed to be the Deputy Commissioner or the District Magistrate and Collector, and an Assistant Superintendent an Assistant Commissioner in charge of a sub-division or an Assistant Collector of the first class, as the case may be.

(*3*) The Local Government shall exercise the powers of the Financial Commissioner and of a Commissioner under any such enactment as aforesaid.[2]

(*4*) This section and sections 9, 16, 22, 23, 33 and 34 shall apply to all persons within the Chin Hills.

(*5*) Section 12 shall apply to all parties to a suit or other proceeding of a civil nature in which any of the parties is a Chin.

CHAPTER III.

HEADMEN AND THEIR POWERS.

Appointment and removal of headmen.

5. (*1*) Subject to any general or special orders of the Local Government

[1] For list of notifications, *see infra*, p. 629.

[2] *See* note to s. 12 (*8*) (*b*) of the Upper Burma Civil Courts Regulation, 1896 (I of 1896), printed, *supra*, p. 399.

the Superintendent may appoint and remove any headman, and may define the local limits of his jurisdiction and declare what clan, or village, or both, shall be subject to him.

(*2*) Where a headman is appointed for a group of villages or clans, the Superintendent may declare the extent to, and the manner in, which the headmen of the villages or clans composing such group shall be subordinate to the headman of the group.

(*3*) In making a declaration under this section the Superintendent shall be guided as far as practicable by local custom.

Powers of headmen.

6. (*1*) Every headman shall within the local limits of his jurisdiction have general control, according to local custom, over the clan, or village, or both, declared subject to him.

(*2*) He may levy from such clan or village any customary dues and may impose on them such punishments as are authorised by local custom :

Provided that no barbarous, excessive or unusual punishment shall be imposed.

(*3*) He shall be bound to keep the peace within the tract under his general control; to comply with all lawful orders received from the Superintendent or Assistant Superintendent; and to furnish on the requisition of the Superintendent or an Assistant Superintendent, on receipt of payment at rates to be fixed by the Superintendent, supplies of food or labour required by any public servant.

Criminal jurisdiction of headmen.

7. (*1*) A headman may try, according to local custom, any person subject to his general control, who may be charged with any offence other than an offence punishable under sections 121 to 130, sections 302 to 308, sections 341 to 348, sections 363 to 377, sections 390 to 402 and sections 438 to 440 (all inclusive) of the Indian Penal Code [1] or with abetment of, or attempt to commit, any of these offences, and may punish with fine in money or goods any person found guilty by him of any such offence as aforesaid. XLV of 1860.

(*2*) Nothing in the Indian Penal Code [1] or in the Code of Criminal Procedure, 1882,[2] shall apply to any proceedings of a headman acting in exercise of the powers conferred by this section. XLV of 1860. X of 1882.

Civil jurisdiction of headmen.

8. A headman may try and decide according to local custom any dispute of a civil nature between persons subject to his general control, and may enforce his decision in accordance with such custom.

[1] *See* now the revised edition as modified up to July, 1899, published by the Legislative Department.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), which was declared applicable by Notification No. 15, dated 30th June, 1898, *see* Burma Gazette, 1898, Pt. I, p. 322.

CHAPTER IV.

JURISDICTION AND SPECIAL POWERS OF OFFICERS.

Chin Hills to constitute a sessions division and a district, and Superintendent to be Sessions Judge.

9. (*1*) The Chin Hills shall constitute a sessions division and a district for criminal, civil, revenue and general purposes, and the Superintendent shall be the Sessions Judge.

(*2*) As Sessions Judge the Superintendent may take cognizance of any offence as a Court of original jurisdiction without the accused being committed to him by a Magistrate for trial, and, when so taking cognizance, shall follow the procedure prescribed by the Code of Criminal Procedure, 1882,[1] for the trial of warrant cases by Magistrates.

X of 1882.

X of 1882.

High Court.

10. For the purposes of the Code of Criminal Procedure, 1882,[1] the Local Government shall exercise the powers of a High Court.

Powers which may be conferred on Assistant Superintendent.

11. The Local Government may, by notification [2] in the Burma Gazette, invest any Assistant Superintendent with all or any of the powers of a Superintendent under this Regulation, and define the local limits of his jurisdiction.

Civil Jurisdiction.

12. (*1*) The Superintendent and every Assistant Superintendent exercising jurisdiction within the Chin Hills may try any suit or other proceeding of a civil nature between parties, any one of whom is a Chin, according to such procedure[3] as the Local Government may, by notification in the Burma Gazette, prescribe; and

(*2*) in the trial of any such suit or proceeding, may exercise all or any of the powers which he might exercise in a suit or proceeding in which none of the parties is a Chin; and

(*3*) in deciding any such suit or proceeding, shall have regard to local custom and to justice, equity and good conscience.

Power to withdraw cases.

13. The Superintendent may withdraw any civil or criminal case pending before a headman or an Assistant Superintendent and may either try it himself or refer it for trial to an Assistant Superintendent.

Power to impose fines on villages, etc., for collusion with criminals.

14. (*1*) Subject to the control of the Local Government, the Superintendent may take hostages from, or impose fines in money or goods on, any clan or village or any part thereof, if after enquiry he finds that any of the persons belonging to such clan or village have—

(*a*) colluded with, or harboured, or failed to take reasonable means to

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), Ch. XXI. This Chapter among other portions of the Code has been declared applicable by Notification No. 15, dated 30th June, 1898, *see* Burma Gazette, 1898, Pt I, p. 322.

[2] For notification under s. 11, investing all Assistant Superintendents with the powers conferred on the Superintendent by s. 14, to be exercised within certain defined limits, *see* Burma Gazette, 1897, Pt. I, p. 211.

For notification conferring such powers on the Assistant Superintendent at Mindat Sakan, *see* Burma Gazette, 1898, Pt I, p. 323.

[3] For notification prescribing rules under this section to regulate the procedure for the trial of suits and other proceedings of a civil nature, *see* Burma Gazette, 1897, Pt. I, p. 211.

prevent the escape of, any person accused of, or under sentence of imprisonment for, an offence;

(*b*) suppressed or combined to suppress evidence in any criminal case;

(*c*) failed or neglected to restore stolen property tracked to their village or to take on the track beyond the limits of their village;

(*d*) done any act hostile or unfriendly to the Government;

(*e*) disobeyed the lawful orders of the Superintendent or of an Assistant Superintendent;

(*f*) taken part in or abetted an attack on traders or other travellers, or the levy of or attempt to levy unauthorized dues or tolls; or

(*g*) engaged in fighting with any other clan or village.

(*2*) The Superintendent may order the whole or any part of a fine imposed under this section to be given as compensation to any person to whom damage or injury has been caused, directly or indirectly, by the act in respect of which the fine is imposed.

(*3*) When in pursuance of an order passed under this section a person has received compensation for injury out of the proceeds of a fine, all right of such person to compensation based on the same injury shall be barred.

Fines on tribes, etc., in case of murder in their boundaries.

15. When within the area occupied by any clan or village a person is dangerously or fatally wounded by unlawful attack, or the body of a person reasonably believed to have been unlawfully killed is found, the members of such clan or village shall be deemed to have committed an offence under the last foregoing section unless they can show that they—

(*a*) had not any opportunity of preventing the offence or arresting the offender; or

(*b*) had used all reasonable means to bring the offender to justice.

Action against disaffected tribe, etc.

16. In the event of any clan or village acting in a manner hostile or unfriendly to the Government, the Superintendent may, subject to the control of the Local Government, detain all or any members of such clan or village, deport them from the Chin Hills for life or for any shorter term, detain or confiscate their property, debar them from access into territory outside the Chin Hills and prohibit all or any other persons from entering the area occupied by such clan or village.

Penalty for abuse of authority or disobedience of orders by headman.

17. Every headman who abuses any of the powers conferred upon him by this Regulation, or neglects to obey any reasonable order of the Superintendent, shall be liable by order of the Superintendent to pay a fine not exceeding fifty rupees, or to be suspended or dismissed from office.

Power to decide disputes likely to lead to feuds.

18. When the Superintendent is satisfied that a dispute likely to cause a feud, breach of the peace or any offence affecting the human body or against property exists, he may enquire into the dispute and pass such order as he may think fit, having regard to local custom and to justice, equity and good conscience.

Power to prevent formation of new village.

19. No new village shall be formed without the consent of the Superintendent, who may, for reasons to be recorded in writing, prohibit the formation thereof.

Power to direct removal of villages.

20. Whenever it seems to the Superintendent to be expedient on military or other grounds, he may, by order in writing, direct the removal of any village to any other site, and, with the sanction of the Local Government, may award to the inhabitants thereof such compensation for any loss which may have been occasioned to them by such removal as, in his opinion, shall be just.

Power to require persons to remove.

21. (*1*) When any person is known or believed to have a feud, or has occasioned any cause of quarrel likely to lead to bloodshed, dacaity or robbery, the Superintendent may require such person to reside beyond the limits of the Chin Hills or within those limits at such place as the Superintendent may deem desirable.

(*2*) No order requiring a person to reside beyond the limits of the Chin Hills shall be made without the previous sanction of the Local Government.

Expulsion of certain persons from Chin Hills.

22. When the Superintendent is satisfied that the presence of any person (not being a public servant or a Chin) is injurious to the peace or good administration of the Chin Hills, he may, for reasons to be recorded in writing, order such person to leave the Chin Hills within a given time.

Penalty for breach of certain orders.

23. Whoever contravenes the provisions of section 19, or disobeys an order under section 20 or a requisition under section 21, or an order under section 22, may, on conviction by a Magistrate, be punished with imprisonment for a term which may extend to six months, and shall also be liable to fine which may extend to one thousand rupees.

Security for the prevention of crime.

24. When the Superintendent is of opinion that it is necessary for the purpose of preventing culpable homicide (whether amounting to murder or not), grievous hurt, dacaity or robbery to require any person to execute a bond for his good behaviour, he may order such person to execute a bond, with or without sureties, for his good behaviour during such period not exceeding three years as the Superintendent may fix.

Security from tribes, etc.

25. When a feud or other cause of quarrel likely to lead to bloodshed or violence exists, or is, in the opinion of the Superintendent, likely to arise between two clans, villages or families of Chins, the Superintendent may order all or any of the persons belonging to such clans, villages or families, or of either of such clans, villages or families, to execute a bond, with or without sureties, for their good behaviour during such period not exceeding three years as he may fix.

Report by Assistant Superintendent.

26 When an Assistant Superintendent duly authorised under section 11 passes an order under section 24 or section 25, he shall at once submit a report of his proceedings to the Superintendent.

Breach of bond.

27. (*1*) The commission or attempted commission, or the abetment by a person who has executed a bond for his good behaviour under section 24, of any offence affecting the human body or against property shall be deemed to be a breach of such bond.

(*2*) If, while a bond executed under section 25 is in force, the life of any person belonging to any clan, village or family concerned is unlawfully taken or attempted to be taken, or the property of any such person is unlawfully taken or attempted to be taken, by or with the abetment of any person or persons belonging to the other clan, village or family, the Superintendent may declare the bonds of all or any of the persons belonging to such other clan, village or family and of their sureties (if any) to be forfeited.

Imprisonment in default of security.

28. (*1*) If any person ordered to execute a bond for his good behaviour under section 24 or section 25 does not give the security required on or before the date on which the period for which the security is to be given begins, he shall be committed to prison or, if he is already in prison, be detained there until such period expires, or until within such period he gives the security to the officer who made the order requiring it, or to the officer in charge of the jail in which he is detained, in which case he shall be forthwith discharged from prison.

(*2*) Imprisonment for failure to give security under section 24 or section 25 may be rigorous or simple as the officer requiring the security directs in each case.

Length of imprisonment.

29. When any person has suffered imprisonment for three years for failure to give security for his good behaviour under section 24 or section 25 he shall be released and shall not again be required to give security unless a fresh order is passed in accordance with the provisions of this Regulation.

Further security.

30. (*1*) Any person who has, under the provisions of section 24 or section 25, given security, or been imprisoned for failure to give security, may be brought before the Superintendent if, on the expiry of the period for which security was required to be given, the Superintendent so directs.

(*2*) When the Superintendent thinks it necessary, for the purpose of preventing the commission of any offence affecting the human body or against property, to require security for a further period from any person so brought before him, he shall record a proceeding to that effect.

(*3*) The proceeding may be founded on the facts on which the original

order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section; and such subsequent order, if passed, shall have the same effect and be enforced in the same manner as an order to give security under section 24 or section 25.

(*4*) Notwithstanding anything in this section, no person shall suffer, for failure to give security under this Chapter, imprisonment for more than six years or, without the sanction of the Local Government, for more than three years.

CHAPTER V.

SPECIAL RULES AS TO ARMS, AMMUNITION, OPIUM AND FORESTS.[1]

Arms and ammunition.

31. (*1*) The Superintendent may fix the number of firearms and the quantity and description of ammunition which may be possessed by any clan or village, and may issue licenses, either to such clan or village collectively, or to any of the persons belonging thereto individually, to possess the firearms and ammunition specified in the licenses.

(*2*) All firearms for which licenses have been issued shall be stamped and entered in a register.

(*3*) The Superintendent may grant a license to any clan or village for the manufacture of gunpowder.

(*4*) Any person who, not being licensed or not belonging to any clan or village licensed in that behalf, possesses any firearms or ammunition, or who exports from the Chin Hills any firearms or ammunition, or who manufactures gunpowder, shall be punished, on conviction by a Magistrate, with imprisonment which may extend to three years, or with fine, or with both.

(*5*) With the previous sanction of the Local Government, the Superintendent may direct that the foregoing sub-section shall not apply to any tract or part of the Chin Hills, and may with the like sanction cancel any direction so made.

(*6*) The Superintendent may, by order in writing, prohibit all or any of the persons belonging to any clan or village from carrying das, spears and bows and arrows, or any of those weapons, in any tract, to be defined in the order, if he is of opinion that such prohibition is necessary to the peace of such tract. Such order shall specify the length of time during which it shall reman in force.

(*7*) Whoever disobeys a prohibition under sub-section (*6*) shall, on

conviction by a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

Prosecution under Reg. VI, 1887.

32. No prosecution under the Upper Burma Forest Regulation, 1887,[1] or any rule thereunder, shall be instituted against any Chin except with the sanction in writing of the Superintendent.

Opium.

33. Whoever imports, cultivates, manufactures, possesses, sells or exports opium, ganja, bhang or charas in the Chin Hills shall be punished, on conviction by a Magistrate, with imprisonment which may extend to one year, or with fine, or with both.

Prohibition of sale of foreign liquor, etc.

34. Whoever sells foreign fermented liquor or spirit to any Chin shall be punished, on conviction by a Magistrate, with imprisonment which may extend to three months, or with fine, or with both.

CHAPTER VI.

Rules regarding Taxes and Realization of Fines, etc.

Taxes.

35. Taxes shall be levied on all clans and villages at such rates and in such manner as the Local Government may prescribe.[2]

Mode of recovering fines, taxes, etc.

36. An order for the payment of any fine or tax, or for the delivery of any property, or for the performance of any act, may be enforced (*1*) by the seizure of any moveable property or of any standing crops of the person against whom such order is made, or, when the order is made against a clan or village or family of Chins, of any person belonging thereto, or (*2*), with the sanction of the Superintendent or of an Assistant Superintendent, by the simple imprisonment, for a term not exceeding one year, of the person against whom such order is made.

CHAPTER VII.

Control.

Prohibition of appeals.

37. No appeal shall lie against any order passed by a headman or by any officer acting under this Regulation.

Control and revision.

38. (*1*) All headmen and all officers in the Chin Hills shall be subordinate to the Superintendent, who may revise any order passed by any such headman or officer, including an Assistant Superintendent specially empowered under section 11.

[1] *See* notification extending Reg. V of 1898, *infra*, p. 629.

[2] For notification directing the imposition of a house-tax on all clans and villages in the Chin Hills, under this section, *see* Burma Gazette, 1897, Pt. I, p. 212.

(*2*) The Local Government may revise any order passed under this Regulation.

Power of Local Government to make rules.

39. Subject to the control of the Governor General in Council, the Local Government may make rules[1] consistent with this Regulation—

(*a*) to regulate the procedure to be observed by officers acting under this Regulation ;

(*b*) to prescribe the use of such forms, the submission of such reports and statements and the maintenance of such records and registers as it may think necessary ; and,

(*c*) generally, to carry into effect the purposes of this Regulation.

Proceedings under Regulation not to be questioned.

40. Except as provided in this Regulation, a decision passed, act done or order made under this Regulation shall not be called in question in any Civil or Criminal Court.

Delegation of certain powers.

41. (*1*) The Local Government may, by notification in the Burma Gazette, delegate[2] to the Commissioner of any division in Upper Burma all or any of the powers conferred upon the Local Government by this Regulation, except the powers conferred by this section and by sections 1, 3, 5, 11, 12, 31, 35 and 39, and may, from time to time by a like notification, rescind or vary any such notification.

(*2*) When all or any of the powers of the Local Government have been delegated to the Commissioner of a division, the Local Government may revise any order passed by such Commissioner except an order passed under section 10.

THE SCHEDULE.

(*See section 3.*)

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES.

Number and year.	Subject	Extent of application.	Modifications.
		1.—Acts.	
Act V of 1843	Slavery . .	So much as may from time to time be in force in Upper Burma.	
„ XVIII of 1850.	Protection of Judicial Officers.	Ditto.	
„ XI of 1857	State Offences .	Ditto.	

[1] For rules regulating the procedure of officers under the Regulation and prescribing the forms to be used by them, *see* Burma Gazette, 1897, Pt. I, p. 212.

[2] For instance of such a delegation, *see* Burma Gazette, 1898, Pt. I, p. 323.

(*The Schedule.—Enactments deemed applicable to Hill-tribes.*)

THE SCHEDULE—*continued.*

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES—*continued.*

Number and year.	Subject.	Extent of application.	Modifications.
		1.—Acts—contd.	
[1]Act XLV of 1860.	Penal Code .	So much as may from time to time be in force in Upper Burma.	In section 64 (as amended by subsequent enactments), for the first fifty-two words the words "In every case in which an offender is sentenced to a fine" shall be substituted. In section 67, for the last forty-seven words the following shall be substituted, namely:— "for any term not exceeding four months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding eight months when the amount shall not exceed one hundred rupees, and for any term not exceeding twelve months in any other case." After section 75 the following shall be added, namely:— "75A. Notwithstanding anything in this Code or in any other law or enactment for the time being in force, a person convicted of any offence punishable under this Code or under any other law or enactment shall be punishable with fine in lieu of, or in addition to, any other punishment to which he may be liable."
[1] „ VI of 1864.	Whipping .	Ditto . .	For section 6 the following shall be substituted, namely:— "Notwithstanding anything in the foregoing sections, a person convicted of any offence may be punished with whipping in lieu of, or in addition to, any other punishment to which he may be liable."

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

(*The Schedule.—Enactments deemed applicable to Hill-tribes.*)

THE SCHEDULE—*concluded.*

ENACTMENTS DEEMED APPLICABLE TO HILL-TRIBES—*concluded.*

Number and year.	Subject.	Extent of application.	Modifications.
		1.—Acts—concld.	
[1] * *	* *	* * *	
[2] * *	* *	* * *	
Act I of 1872 .	Evidence . .	So much as may from time to time be in force in Upper Burma.	
[3] * *	* *	* * *	
[2] * *	* *	* * *	
		2.—Regulations.	
[4]Bengal Regulation III of 1818.	State Prisoners	So much as may from time to time be in force in Upper Burma.	
[5] Regulation VI of 1887.	Forests . .	Ditto.	
[6]Regulation IX of 1887.	Frontier Crossing	Ditto.	
[7] Regulation XII of 1887.	Rubies . .	Ditto.	
[8] Regulation V of 1892.	Criminal Justice .	The whole, except sections I, II, VI, VII, IX, X, XVI and XVII of the Schedule.	
[9] Regulation V of 1895.	Ditto . .	The whole.	

[1] The entry relating to Act XIV of 1866 is omitted as that Act is repealed by the Indian Post Office Act, 1898 (VI of 1898), printed, General Acts, Vol. VI, p. 683. Act VI of 1898 was declared applicable by Notification No. 21, dated 9th September, 1898, Burma Gazette, 1898, Pt. I, p. 420.

[2] The entries relating to Acts I of 1868 and I of 1887 are omitted as those Acts are repealed by the General Clauses Act, 1897 (X of 1897), applied by Notification No. 7, dated the 16th February, 1899, *see* Burma Gazette, 1899, Pt. I, p. 83.

[3] The Code of Criminal Procedure, 1882, is repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), corresponding portions of which were applied by Notification No. 14, dated 30th June, 1898, *see infra*, Pt. V, p. 628.

[4] Printed, *supra*, p. 1.

[5] *See* now, however, Notification No. 242, declaring the Upper Burma Forests Regulation, 1898 (V of 1898) to be applicable to Chins in the Chin Hills, Burma Gazette, 1899, Pt. I, p. 369.

[6] Printed, *supra*, p. 322.

[7] Printed, *supra*, p. 325.

[8] Printed, *supra*, p. 373.

[9] Repealed in the rest of Upper Burma by the Burma Laws Act, 1898 (XIII of 1898).

REGULATION No. I OF 1897.[1]

[*Received the assent of the Governor General on the 10th May, 1897; published in the* Gazette of India, *1897, Pt. I, p. 345; and in the* Burma Gazette, *ibid, Pt. II, p. 152.*]

A Regulation to amend the Upper Burma Ruby Regulation, 1887.[2]

WHEREAS it is expedient to amend the Upper Burma Ruby Regulation, 1887 [2]; It is hereby enacted as follows:— XII of 1887.

Amendment of section 6, Reg. XII, 1887.

1. In section 6 of the Upper Burma Ruby Regulation, 1887, as amended XII of 1887. by Regulation No. V of 1891, after the words "before a Magistrate of the first class" wherever they occur, the words "or, in a stone-tract, before a Magistrate of the second class, specially empowered by the Local Government in this behalf" shall be inserted.

Amendment of section 9, Reg. XII, 1887.

2. In section 9, sub-section (2), of the said Regulation, for clause (*b*) the following shall be substituted, namely:—

"(*b*) in a stone-tract, detain and search any person whom he has reason to believe to be guilty of any offence under section 6, and, if necessary, arrest that person and any other person in his company;

(*c*) elsewhere, detain and search any person whom he has reason to believe to be guilty of any offence under section 6, and, if that person has any stone in his possession, arrest him and any other person in his company."

REGULATION No. II OF 1897.

[*Received the assent of the Governor General on the 15th November, 1897; published in the* Gazette of India, *1897, Pt. I, p. 1056; and in the* Burma Gazette, *ibid, Pt. II, p. 419.*]

A Regulation to consolidate and amend the Law providing for the Registration of Documents in Upper Burma.

WHEREAS it is expedient to consolidate and amend the law providing for

[1] Short title "The Upper Burma Ruby Regulation (1887) Amendment Regulation, 1897," *see* the Fourth Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 285.

[2] Printed, *supra*, p. 325.

the registration of documents in Upper Burma; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Registration Regulation, 1897.

(*2*) It extends to the whole of Upper Burma except the Shan States[1]; and

(*3*) It shall come into force at once.

Repeal.

1 of 1887. **2.** The Upper Burma Registration Regulation, 1887, is repealed.

Definition of "immoveable property."

3. In this Regulation, the expression "immoveable property" includes lands, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops or grass.

Power for Local Government to notify documents which shall be registered.

[2]**4.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare, with respect to documents of any class described in the notification, that documents of that class executed on or after a date to be prescribed by the notification, and purporting or operating to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immoveable property situate in any part of Upper Burma specified in the notification, shall be registered in accordance with the provisions of this Regulation.

Power for Local Government to notify documents which may be registered.

5. The Local Government may, by notification in the local official Gazette, declare, with respect to documents of any class not required by a notification under the last foregoing section to be registered, that documents of that class executed on or after a date to be prescribed by the notification may be registered in accordance with the provisions of this Regulation.

Effect of not registering document required under section 4 to be registered.

6. A document required by a notification under section 4 to be registered shall not affect any immoveable property comprised therein, or be received as evidence of any transaction affecting that property, unless it has been registered in accordance with the provisions of this Regulation.

Power for Local Government to establish registration-offices and appoint registering-officers.

7. (*1*) The Local Government may, for the purposes of this Regulation by notification in the local official Gazette, establish such registration-offices and appoint such persons to be registering-officers, as it thinks fit.

(*2*) A registering-officer appointed under this Regulation shall be deemed

XLV of 1860. to be a public servant within the meaning of the Indian Penal Code.[3]

[1] The words "except the Shan States" seem superfluous, *see* s. 10 (*2*) of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 263.

[2] For notification issued under this section, *see* Notification No. 25, dated the 17th February, 1898, *Burma Gazette*, 1898, Pt. I, p. 90.

[3] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

Power for Local Government to make rules.

8. (*1*) The Local Government may, by notification in the local official Gazette, with the previous sanction of the Governor General in Council, make rules to regulate the registration of documents[1] under this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing provision, rules under this section may, among other matters,—

(*a*) define the time, place and mode of presenting documents for registration;

(*b*) regulate the duties and powers of registering-officers, and specify the cases in which such officers may enforce the appearance of executants and witnesses; and

(*c*) fix the fees payable for registration, searches and copies, and the time when fees shall be payable.

Power for Local Government to provide for deposit in registration-offices of documents written on parabaik or palm-leaves.

9. The Local Government may, by notification in the local official Gazette, declare that documents written on parabaik or palm-leaves may, before a certain day to be fixed by the notification, be deposited for safe custody in any registration-office, and may in like manner make rules for regulating, in respect of documents so deposited,—

(*a*) the time, place and mode of presentation and deposit;

(*b*) the fees payable for deposit;

(*c*) the conditions subject to which such documents or certified copies thereof shall be produced by registering-officers in the Courts of law or before a revenue-officer; and

(*d*) the manner in which such documents shall be copied into registers and indexed.

Disposal of documents deposited under section 9.

10. When a document has been deposited in pursuance of the provisions of the last foregoing section and any rules thereunder, it shall not be returned by the registering-officer to the depositor nor delivered to any other person, and shall not be produced except upon the requisition, duly authenticated, of some Court of law or revenue-officer.

Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

11. Every registering-officer appointed under section 7, and every person employed in his office for the purposes of this Regulation, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited in pursuance of rules under this Regulation, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury, as defined in the Penal Code,[2] to any person, XLV of 1860.

[1] For rules made under this sub-section, *see* Burma Gazette, 1898, Pt. I, p. 296.

[2] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for certain other offences.

12. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both :—

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of rules under this Regulation in any proceeding thereunder;

(*b*) falsely personates another and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding under this Regulation ;

XLV of 1860. (*c*) abets, within the meaning of the Indian Penal Code,[1] anything made punishable by this or the last foregoing section.

REGULATION No. I OF 1898.

[*Received the assent of the Governor General on the 25th March, 1898; published in the* Gazette of India, *1898, Pt. I, p. 367; and in the* Burma Gazette, *ibid, Pt. II, p. 277.*]

A Regulation to amend the Kachin Hill-tribes Regulation, 1895.[2]

WHEREAS it is expedient to amend the Kachin Hill-tribes Regulation, I of 1895. 1895[2]; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Regulation may be called the Kachin Hill-tribes Regulation (1895) Amendment Regulation, 1898; and

(*2*) It shall come into force at once.

Amendment of section 1, Reg. I, 1895.

2. In section 1, sub-section (*3*), of the Kachin Hill-tribes Regulation, 1895[2] (hereinafter referred to as "the said Regulation"), for the word and figures "section 15" the words, figures and letters "sections 15, 20A, 21 and 31A shall apply" shall be substituted.

Substitution of new section for section 5, Reg. I, 1895.

3. For section 5 of the said Regulation the following section shall be substituted, namely :—

[*Vide, supra*, p. 383.]

[1] *See* second note on page opposite.
[2] Printed, *supra*, p. 381.

Amendment of section 16, Reg. I, 1895.

4. In section 16 of the said Regulation, for the word "fifty" the words "one hundred and fifty" shall be substituted.

Addition of new section after section 20, Reg. I, 1895.

5. After section 20 of the said Regulation the following section shall be added, namely :—

[*Vide supra*, p. 386.]

Amendment of section 21, Reg. I, 1895.

6. In section 21 of the said Regulation, after the figures "20" the words, figures and letter "or an order under section 20A" shall be inserted.

Addition of new section after section 31, Reg. I, 1895.

7. After section 31 of the said Regulation the following section shall be added, namely :—

[*Vide supra*, p. 389,]

Amendment of Schedule, Reg. I, 1895.

8. In column 3 of the Schedule to the said Regulation and opposite to the entry regarding Act X of 1882 (Criminal Procedure),[1] after the figure "4" the figures "12" and after the figures "89" the word and figures "Chapter VIII" shall be inserted.

REGULATION No. III OF 1898.

[*Received the assent of the Governor General on the 13th July, 1898; published in the* Gazette of India, *1898, Pt. I, p. 775; and in the* Burma Gazette, *1898, Pt. II, p. 406.*]

A Regulation to amend the Upper Burma Land and Revenue Regulation, 1889.[2]

WHEREAS it is expedient to amend the Upper Burma Land and Revenue Regulation, 1889[2]; It is hereby enacted as follows :— III of 1889.

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Land and Revenue Regulation (1889) Amendment Regulation, 1898.

(*2*) It extends to the whole of Upper Burma except the Shan States[3]; and

(*3*) It shall come into force at once.

Substitution of new section for section 3, Reg. III, 1889.

2. For section 3 of the Upper Burma Land and Revenue Regulation, 1889,[2] the following shall be substituted, namely :— III of 1889.

[*Vide supra*, p. 345.]

[1] The Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Ed. 1898, Vol. VI, p. 380, has since been applied to these Hill-tribes with corresponding modification, and this section is now therefore obsolete.

[2] Printed, *supra*, p. 344.

[3] The words "except the Shan States" appear to be superfluous, *see* s. 10 (*2*) of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 263.

3. In section 29, sub-section (*1*), of the said Regulation, after the word "village" the words "and for such towns as he may from time to time, by notification in the local official Gazette, direct" shall be inserted. Amendment of section 29, Reg. III, 1889

4. (*1*) In section 31, sub-section (*3*), of the said Regulation, for the words and figures "Upper Burma Land Acquisition Regulation, IX of 1886,"[1] the words and figures "Land Acquisition Act, 1894,[2]" shall be substituted. Amendment of and addition to section 31, Reg. III, 1889.

(*2*) To the same section the following shall be added, namely :—

[*Vide supra*, p. 357.]

THE UPPER BURMA FOREST REGULATION, 1898.

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[1] Rep. by Regulation VII of 1896, which has in turn been repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule, that Act having declared the Land Acquisition Act, 1894 (I of 1894) in force in Upper Burma, *see* the First Schedule, *supra*, p. 266.

[2] Printed, General Acts, Vol. VI, p. 100.

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REGULATION No. V OF 1898.[1]

[*Received the assent of the Governor General on the 5th November, 1898; published in the* Gazette of India, *1898, Pt. I, p. 1093; and in the* Burma Gazette, *ibid, Pt. II, p. 523.*]

A Regulation to consolidate and amend the law relating to forests, forest-produce and the duty leviable on timber in Upper Burma.

WHEREAS it is expedient to consolidate and amend the law relating to forests, forest-produce and the duty leviable on timber in Upper Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Upper Burma Forest Regulation, 1898.

[1] This Regulation has been extended to all the Shan States (except those portions of the Northern Shan States which lie to the east of the Salween River), by notification under s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), *see* Burma Gazette, 1899, Pt. I, p. 59. It has been declared to be applicable to Cnins in the Chin Hills, and to members of a hill-tribe in a hill-tract, by notification under the proviso to section 3, sub-section (2), of the Chin Hills Regulation, 1896 (V of 1896)—*see* Burma Gazette, 1899, Pt. I, p. 369.

(2) It extends to the whole of Upper Burma :

Provided that the Local Government may, by notification in the local official Gazette, exempt any place from its operation ; and

(3) It shall come into force at once.

(4) A notification under the proviso to sub-section (2) exempting a place from the operation of this Regulation shall not affect anything done, or any offence committed, or any fine or penalty imposed in such place before such exemption.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(1) "Forest-officer" means any person appointed by or under the orders of the Governor General in Council or the Local Government to be a Conservator, Deputy Conservator, Extra-Deputy Conservator, Assistant Conservator, Extra-Assistant Conservator, Forest-ranger, Deputy Forest-ranger, Forester or Forest-guard, or to discharge any function of a Forest-officer under this Regulation :

(2) "tree" includes palms, bamboos, stumps, brushwood and canes :

(3) "timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not :

(4) "forest-produce" includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say :—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams ; and

(b) the following when found in, or brought from, a forest, that is to say :—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees ;

(ii) plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants ;

(iii) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax and all other parts or produce of animals ; and

(iv) peat, surface-soil, rock and minerals (including lime-stone, laterite, mineral oils and all products of mines or quarries):

Explanation.—For the purposes of this definition, the word "forest" includes all land at the disposal of the Government in respect of which rules

made by the Local Government under section 36 are for the time being in force :

(*5*) " forest-offence " means an offence punishable under this Regulation :

(*6*) " cattle " includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids :

(*7*) " river " includes also streams, canals, creeks, and other channels, natural or artificial :

(*8*) " land at the disposal of the Government " means—

(*a*) land in respect of which no person has acquired a permanent, heritable and transferable right of use and occupancy under any law for the time being in force ;

(*b*) land in respect of which no person has acquired any right created by grant or lease made or continued by, or on behalf of, the British Government : and

(*9*) " Magistrate " means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Local Government to try forest-offences.

CHAPTER II.

Reserved Forests.

Power to constitute reserved forests.

3. The Local Government may constitute any land at the disposal of the Government a reserved forest in manner hereinafter provided.

Notification by Local Government of proposal to constitute a reserved forest.

4. (*1*) Whenever it is proposed to constitute any land a reserved forest, the Local Government shall publish a notification in the local official Gazette—

(*a*) specifying as nearly as possible the situation and limits of such land ;

(*b*) declaring that it is proposed to constitute such land a reserved forest ;

(*c*) appointing an officer (hereinafter called the Forest-settlement-officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of taungya-cultivation, and to deal with the same as provided in this Chapter.

(*2*) The Forest-settlement-officer shall ordinarily be a person other than a Forest-officer, but a Forest-officer may be appointed by the Local Government to assist the Forest-settlement-officer in the inquiry prescribed by this Chapter.

Proclamation by Forest settlement-officer.

5. When a notification has been published under section 4, the Forest-settlement-officer shall publish in the language of the country, at the head-quarters of each township in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest ;

(*b*) setting forth the substance of the provisions of the next following section ;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*d*) fixing a period of not less than three months from the date of the publication of such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 4 either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right or claim.

Bar of accrual of forest-rights after proclamation.

6. (*1*) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published ; and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided.

(*2*) Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-settlement-officer, or any clearings lawfully made for taungya-cultivation by persons in the habit of practising such cultivation on such land.

Inquiry by Forest-settlement-officer.

7. (*1*) The Forest-settlement-officer shall take down in writing all statements made under section 5, and shall inquire into all claims made under that section and the existence of any right or practice mentioned in section 4 in respect of which no claim is made.

(*2*) The Forest-settlement-officer shall at the same time consider and record any objection which the Forest-officer, if any, appointed under section 4 to assist him, may make to any such claim or with respect to the existence of any such right or practice.

Powers of Forest-settlement-officer.

8. For the purposes of such inquiry the Forest-settlement-officer may exercise—

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880[1]; and V of 1880.

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure[2] XIV of 1882. for compelling the attendance of witnesses and the production of documents.

Treatment of claim relating to practice of taungya-cultivation.

9. (*1*) In the case of a claim relating to the practice of taungya-cultivation, the Forest-settlement-officer shall pass an order specifying the particulars of such claim, and permitting, or refusing to permit, such practice wholly or in part.

(*2*) If such practice is permitted wholly or in part, the Forest-settlement-officer may—

(*a*) alter the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants; or

(*b*) cause certain portions of the reserved forest to be separately demarcated, and give permission to the claimants to practise taungya-cultivation under such rules and conditions as he may prescribe.

(*3*) No absolute right to practise taungya-cultivation shall be deemed to be conferred by an order under this section permitting such practice, and, except with the sanction of the Local Government, such cultivation shall be practised only by the person to whom such permission is granted.

Power to acquire land over which right is claimed.

10. (*1*) In the case of a claim to a right in or over any land other than the following rights, namely :—

(*a*) a right of way ;

(*b*) a right to a water-course or to the use of water ;

(*c*) a right of pasture or to forest-produce ;

(*d*) a right to cultivate tobacco on the banks or in the beds of rivers and streams containing alluvial formations ;

(*e*) a right to cultivate mulberry trees ;

(*f*) a right to practise any other sort of cultivation which the Local Government may, by notification in the local official Gazette, specify in this behalf ;

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

[1] Printed, *supra*, p. 77.
[2] Printed, General Acts, Vol. IV, p. 262.

(*2*) If such claim is admitted wholly or in part, the Forest-settlement officer may—

(*x*) come to an agreement with the claimant for the surrender of the right; or

(*y*) exclude the land from the limits of the proposed forest; or

(*z*) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.[1]

1 of 1894.

(*3*) For the purpose of so acquiring such land—

(i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894[1];

1 of 1894.

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, may award compensation in land, or partly in land and partly in money.

Order on claim to right of way, watercourse or pasture or to forest-produce.

11. (*1*) In the case of a claim to a right of a kind specified in clause (*a*), clause (*b*) or clause (*c*) of section 10, sub-section (*1*), the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest-settlement-officer shall record the designation, position and area of such land, or the designation and position of such building.

(*3*) Where the right is a right to forest-produce, the Forest-settlement-officer shall record whether the forest-produce obtained by the exercise of such right may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right.

Provision for right of pasture or to forest-produce admitted.

12. (*1*) When the Forest-settlement-officer has admitted wholly or in part and recorded under the last foregoing section a claim to a right of pasture or to forest-produce, he shall as far as possible provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant: or

[1] Printed, General Acts, Vol. VI, p. 100.

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce, as the case may be, subject to such rules as may be prescribed by the Local Government.

(*2*) An order passed under clause (*b*) of sub-section (*1*) shall record, as far as practicable,—

(i) Where the right is a right of pasture, the number and description of the cattle which the claimant is from time to time entitled to graze, and the local limits within which, and the seasons during which, such pasture is permitted; and

(ii) where the right is a right to forest-produce, the quantity of such produce which the claimant is authorized to take or receive, and the local limits within which, the season during which, and the mode in which, the taking or receiving of such produce is permitted; and,

(iii) whether the right is a right of pasture or a right to forest-produce, such other particulars as may be required in order to define the extent of the right which is continued, the mode in which it may be exercised and the extent to which the benefit thereof may be leased, sold or bartered.

Commutation of such rights.

13. Whenever any right of pasture or to forest-produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, the Forest-settlement-officer shall, subject to such rules as the Local Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

Order on claim to right of cultivation.

14. (*1*) In the case of a claim to any right of a kind specified in clause (*d*), clause (*e*) or clause (*f*) of section 10, sub-section (*1*), the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) When a claim to any such right is admitted wholly or in part, the Forest-settlement-officer may—

(*a*) deal with it in one or other of the ways provided in section 10; or

(*b*) permit the practice of the right subject to such limitations as to places of cultivation, and subject to the observance of such precautions against damage to the reserved forest by fire or otherwise, as may to him seem advisable, or as may be prescribed by the Local Government by rules made in this behalf.

(*3*) The Forest-settlement-officer shall also record whether the produce obtained by the exercise of such right may be sold or bartered, and such other

particulars as may be necessary to define the nature, incidents and extent of the right.

Appeal from order passed under this Chapter.

15. Any person who has made a claim under this Chapter may, within three months from the date of any order passed on such claim by the Forest-settlement-officer under section 9, section 10, section 11, section 12, section 13 or section 14, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Local Government may, by notification in the local official Gazette, appoint to hear appeals from such orders.

Presentation and hearing of appeals.

16. (*1*) Every appeal under the last foregoing section shall be made by petition in writing, and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the officer competent to hear the same.

(*2*) Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to revenue, and, except as hereinafter provided, the order passed on the appeal shall be final.

Notification declaring forest reserved.

17. (*1*) When the following events have occurred, namely:—

(*a*) the period fixed under section 5 for preferring claims has elapsed and all claims, if any, made within such period have been disposed of by the Forest-settlement-officer, and

(*b*) if such claims have been made, the period fixed by section 15 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the appellate officer, and

(*c*) all lands, if any, to be included in the proposed reserved forest which the Forest-settlement-officer has, under section 10 or section 14, elected to acquire under the Land Acquisition Act, 1894,[1] have become vested in the Government under that Act,

1 of 1894.

the Local Government may publish a notification in the local official Gazette specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

(*2*) From the date so fixed such forest shall be deemed to be reserved forest.

Extinction of rights not claimed.

18. Rights in respect of which no claim has been preferred under section 5, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 5.

[1] Printed, General Acts, Vol. VI, p. 100.

Publication of translation of notification in neighbourhood of forest.

19. The Deputy Commissioner of the District in which the forest is situate, shall before the date fixed by such notification cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section 5.

Power to revise arrangement made under section 9, 12 or 16, etc.

20. The Local Government may, within five years from the publication of any notification under section 17, revise any arrangement made under section 9, section 12 or section 16, and may rescind or modify any order made under this Chapter, and direct that any one of the proceedings specified in section 12 be taken in lieu of the other of such proceedings or that a permission granted under section 9 or section 14 or a right admitted under section 11 be commuted in the manner mentioned in section 13.

Cancellation of right to practise taungya-cultivation.

21. (*1*) If any one of certain persons to whom permission to practise taungya-cultivation has been granted under the provisions of section 9, sub-section (*2*), clause (*b*), omits for a continuous period exceeding five years to practise such cultivation, either himself or by some member of his family, and if such person has not during such period been engaged in the cultivation of taungya-plantations in reserved forests on behalf of the Government, the Local Government, after such inquiry as it considers necessary, may, by notification in the local official Gazette, cancel the permission granted to such person and reduce the area demarcated under the said provisions in such manner as it thinks fit:

Provided that the amount by which the said area is reduced shall not bear a larger proportion to the whole of the said area than the interest in the area of the person whose permission to cultivate is cancelled bears, in the opinion of the Local Government, to that of all the persons to whom permission was originally granted to cultivate in the said area.

(*2*) If any person to whom a right has been continued under the provisions of section 12, sub-section (*1*), clause (*b*), or permitted under section 14, sub-section (*2*), clause (*b*), ceases for a continuous period exceeding five years to exercise or practise such right, the Local Government, after such inquiry as it considers necessary, may, by notification in the local official Gazette cancel the right.

Acquisition of right in or over reserved forest.

22. No right of any description shall be acquired in or over a reserved forest, except by succession or under grant or contract in writing made by, or with the previous sanction of the Governor General in Council or some person in whom such right, or the power to create such right, was vested when the notification under section 17 was published.

Alienation of right in or

23. (*1*) Notwithstanding anything herein contained, no right continued under section 12 or permitted under section 14 shall be alienated by way of

grant, sale, lease, mortgage or otherwise without the sanction of the Local Government : over reserved forest.

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such land or building, without such sanction.

(*2*) The benefit of any right continued under section 12 or permitted under section 14 shall not be leased, sold or bartered, except to the extent defined by the order recorded under such section.

24. Any Forest-officer may, from time to time, with the previous sanction of the Local Government or of a Forest-officer or other officer authorized by the Local Government in this behalf, stop any public or private way or water-course in a reserved forest : Power to stop way or water-course in reserved forest.

Provided that for the way or water-course so stopped another way or water-course which, in the opinion of the Local Government, is equally convenient, already exists or has been provided or constructed by the Forest-officer stopping the way or water-course.

25. Whoever in a reserved forest— Penalty for trespass or damage in reserved forest.

(*a*) trespasses, or pastures cattle, or permits cattle to trespass, or

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber, or

(*c*) poisons water or, in contravention of any rules[1] made by the Local Government, hunts, shoots, fishes or sets traps or snares,

shall be punishable with fine which may extend to fifty rupees or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

26. Whoever— Acts prohibited in reserved forest.

(*a*) makes any fresh clearing prohibited by section 6, or

(*b*) sets fire to a reserved forest, or, in contravention of any rules[1] made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest, or

in such a forest—

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify, or

(*d*) fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree, or

[1] For rules made under this section in conjunction with ss. 26, 36, 38, 43, 44, 51 and 75, for Upper Burma, including the Shan States, *see* Burma Gazette, 1899, Pt. I, p. 99.

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce, or

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Acts excepted from sections 25 and 26.

27. Nothing in section 25 or section 26 shall be deemed to prohibit—

(*a*) the exercise, in accordance with the rules, if any, made by the Local Government under section 12 or section 14, of any right continued under either of those sections; or

(*b*) any act done with the permission in writing of a Forest-officer specially empowered to grant such permission; or

(*c*) any practice of taungya-cultivation permitted under section 9; or

(*d*) the exercise of any right created by grant or contract in the manner described in section 22.

Additional punishment in case of offence committed by person having rights in reserved forest.

28. Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest or permission to practise taungya-cultivation therein, or by any person in his employment, or whenever any person having rights in such forest contravenes the provisions of section 23, the Local Government may, notwithstanding that a penalty has been inflicted under section 26 in respect of such fire, direct that in such forest, or any specified portion thereof, the exercise of all or any of such rights shall be extinguished, or be suspended for such period as it thinks fit, and may withdraw any permission to practise taungya-cultivation in such forest or portion.

Power to declare forest no longer reserved.

29. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette direct that, from a date to be fixed by such notification, any forest, or any portion thereof, reserved under this Regulation shall cease to be reserved.

(*2*) From the date so fixed such forest or portion shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

VILLAGE-FORESTS.

Constitution of village-forests.

30. (*1*) The Local Government may, by notification in the local official Gazette, constitute any land at the disposal of the Government a village-forest for the benefit of any village-community or group of village-communities.

(*2*) Every such notification shall specify the limits of such village-forest.

Teak trees in village-forest to be deemed the property of the Government.

31. All teak trees in a village-forest shall be deemed to be the property of the Government, and no person shall fell, cut, girdle, mark, lop, tap or injure by fire or otherwise any such trees without the permission in writing of a Forest-officer specially empowered to grant such permission.

Power to make rules for village-forests.

32. (*1*) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted, may be provided with forest-produce or with pasture, and their duties in respect of the protection and improvement of such forest.

(*2*) The Local Government may, by such rules, declare any of the provisions of Chapter II to be applicable to village-forests.

Inquiry into and settlement of rights.

33. All claims to any rights other than the rights of the village-community or group of village-communities for the benefit of which such village-forest is constituted, shall be inquired into, recorded and provided for in the manner prescribed by Chapter II.

CHAPTER IV.

General Protection of Forests and Forest-produce.

Reserved trees in unsettled tracts.

34. (*1*) All teak trees standing on any land not included in a reserved forest or village-forest shall be deemed to be the property of the Government and shall be reserved trees.

(*2*) The Local Government may, by notification in the local official Gazette,—

(*a*) declare that any other trees, or any specified class of other trees, standing on any land at the disposal of the Government shall, from a date to be fixed by such notification, be reseved trees;

(*b*) declare that any teak trees standing on land other than land at the disposal of the Government shall, from a date to be fixed by such notification, cease to be the property of the Government and to be reserved trees.

Protection of reserved trees.

35. No person shall fell, cut, girdle, mark, lop, tap or injure by fire or otherwise any reserved tree, except in accordance with rules[1] made by the Local Government in this behalf or as provided by the last section of this Chapter.

Power to make rules for protection of unsettled forests.

36. (*1*) No person shall make use of any forest-produce of any land, or found on any land, at the disposal of the Government and not included in a reserved forest or village-forest, except in accordance with rules[1] made by the

[1] *See* note to s. 25, *supra*.

belonging to the Government.

Local Government in this behalf or as provided by the last section of this Chapter.

(*2*) Such rules may, with respect to such land,—

(*a*) regulate or prohibit the cutting of taungyas or the issue of grants or leases on behalf of the Government;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*c*) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise of any trees, the sawing, conversion and removal of timber, and the collection and removal of other forest-produce;

(*d*) regulate or prohibit the quarrying of stone, the boiling of catechu, or the burning of lime or charcoal;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments, if any, to be made for such cutting or pasturing;

(*f*) prohibit the poisoning of water, and regulate or prohibit hunting, shooting and fishing and the setting of traps or snares;

(*g*) regulate the sale or free grant of forest-produce; and

(*h*) prescribe, or authorize any Forest-officer to prescribe, subject to the control of the Local Government, the fees, royalties or other payments for forest-produce, and the manner in which such fees, royalties or other payments are to be levied, whether in transit, or partly in transit, or otherwise.

(*3*) The Local Government may exempt any person, or class of persons or any local area, from the operation of any such rule.

Levy of royalty on manufactured catechu.

37. The Local Government may, by notification in the local official Gazette, levy royalty, at such rates as may be prescribed by the notification, on all manufactured catechu brought to a revenue-station established under section 43, sub-section (*2*), clause (*g*).

Penalties.

38. (*1*) Whoever infringes the provisions of section 35 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) The Local Government may, by a rule[1] under section 36, attach to the breach of any rule under that section any punishment not exceeding that mentioned in sub-section (*1*).

Nothing in this Chapter to prohibit

39. Nothing in this Chapter, or in any rule under this Chapter, shall be deemed to prohibit any act done in the exercise of any right or with the

[1] *See* note to s. 25, *supra*.

permission in writing of a Forest-officer specially empowered to grant such permission. Acts done in certain cases.

CHAPTER V.

Duty on imported Forest-produce.

40. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, levy a duty, in such manner, at such places, and at such rates, as it may prescribe by notification in the local official Gazette, on all forest-produce which is brought into the territories to which this Regulation extends from any place beyond those territories. Power to impose duty on forest-produce.

(*2*) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, by like notification, determine the manner in which the value is to be ascertained.

41. The Local Government may exempt any forest-produce from the duty to which it is liable under the last foregoing section. Power to exempt forest-produce from duty.

42. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty in respect of any forest-produce. Provisions of Chapter not to limit purchase-money or royalty.

CHAPTER VI.

Control of Forest-produce in Transit.

43. (*1*) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest-produce in transit by land or water, is vested in the Local Government, and that Government may make rules[1] to regulate the transit of any forest-produce. Power to make rules to regulate transit of forest-produce

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the routes by which alone forest-produce may be imported into, exported from, or moved within the territories to which this Regulation extends;

(*b*) prohibit the import, export, collection or moving of forest-produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes;

(*d*) fix, or authorize any Forest-officer subject to the control of the Local Government to fix, the fees payable for such passes;

[1] *See* note to s. 25, *supra*.

(*e*) in the case of timber formed into a raft or fastened to the shore prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government ;

(*f*) provide for the stoppage, reporting, examination and marking of forest-produce in transit in respect of which there is reason to believe that any money is payable to the Government, or to which it is desirable, for the purposes of this Regulation, to affix a mark ;

(*g*) establish revenue-stations to which forest-produce is to be taken by the persons in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it and prescribe, or authorise a Forest-officer, subject to such control as aforesaid, to prescribe, the conditions under which forest-produce is to be brought to, stored at, and removed from, such revenue-stations ;

(*h*) provide for the management and control of such revenue-stations, and for regulating the appointment and duties of persons employed thereat ;

(*i*) authorise the transport of timber across any land, and provide for the award and payment of compensation for any damage done by the transport of such timber ;

(*j*) prohibit the closing up or obstruction of the channel or banks of any river used for the transit of forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any other act which tends to cause the obstruction of such channel ;

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction ;

(*l*) prohibit, absolutely or subject to conditions, within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking-hammers or other implements used for marking timber ; and

(*m*) regulate the use of marks for timber and the registration of such marks, authorise the refusal or cancellation of the registration of such marks, prescribe the time for which the registration of

such marks is to hold good, limit the number of such marks which may be registered by any one person, and provide for the levy of fees for such registration.

(*3*) The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

Penalty for breach of rule under section 43.

44. (*1*) The Local Government may, by a rule under the last foregoing section, attach to the breach of any rule[1] under that section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(*2*) Where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Court may inflict double the penalty prescribed for such offence.

All persons bound to assist in case of accident at revenue-station.

45. In case of any accident or emergency involving danger to any property at a revenue-station established under section 43, sub-section (*2*), clause (*g*), every person employed at such revenue-station, whether by the Government, or by any private person, shall render assistance to any Forest-officer or Police-officer demanding his aid in averting such danger and securing such property from damage or loss.

CHAPTER VII.

Collection of Drift, Stranded and other Timber.

Certain kinds of timber to be deemed the property of the Government until title thereto proved.

46. (*1*) Timber falling under any of the following descriptions, namely :—

(*a*) timber found adrift, beached, stranded or sunk,

(*b*) timber bearing marks which have not been registered under rules made under section 43,

(*c*) timber which has been supermarked, or on which marks have been obliterated, altered or defaced by fire or otherwise, and

(*d*) in such areas as the Local Government directs, all unmarked timber,

shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this Chapter.

[1] *See* note to s. 25, *supra*.

(*2*) Such timber may be collected by any Forest-officer or other person entitled to collect the same, and may be brought to such stations as a Forest officer specially empowered in this behalf may from time to time notify as stations for the reception of drift timber.

(*3*) The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section.

Notice to claimants of timber collected under section 46.

47. (*1*) Public notice shall, from time to time, as occasion may require, be given by a Forest-officer specially empowered in this behalf of timber collected under the last foregoing section.

(*2*) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to timber.

48. (*1*) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(*2*) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

(*3*) Any person whose claim has been rejected under this section may, within six months from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(*4*) No such timber shall be subject to the process of any Civil Court until it has been delivered or until a suit brought under this section has been decided.

(*5*) Every suit instituted under this section shall be subject to the provisions of section 424 of the Code of Civil Procedure[1]: XIV of 1882.

Provided that the notice required by the said provisions shall be given within three months from the date of the rejection, under sub-section (*1*), of the intending plaintiff's claim.

Disposal of unclaimed timber.

49. Where no statement is presented in the manner and within the period prescribed by notice issued under section 47, or where, such statement having been so presented and the claim rejected, the claimant omits to institute a suit

[1] Printed, General Acts, Vol. IV, p. 891.

to recover possession of such timber within the further period mentioned in section 48, the ownership of such timber shall vest in the Government free from all incumbrances, or, when such timber has been delivered to another person under section 48, in such other person free from all incumbrances not created by him.

Payment to be made by claimant before delivery of timber.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing and disposing of the timber has been paid by him to the Forest-officer or other person entitled to receive the sum.

Power to make rules as to salving, etc., of timber.

51. (*1*) The Local Government may make rules[1] to regulate the following matters, namely :—

(*a*) the salving, collection and disposal of all timber mentioned in section 46 ;

(*b*) the use and registration of boats used in salving and collecting timber ;

(*c*) the amount to be paid for salving, collecting, moving, storing and disposing of such timber ; and

(*d*) the use and registration of hammers and other implements to be used for marking such timber.

(*2*) The Local Government may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

Penalties and Procedure.

Seizure of property liable to confiscation.

52. (*1*) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in the commission of such offence, may be seized by any Forest-officer or Police-officer.

(*2*) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

[1] *See* note to s. 25, *supra*.

Provided that, when the forest-produce with respect to which such offence is believed to have been committed, is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure on receipt by Magistrate of report of seizure.

53. Upon the receipt of such a report as is referred to in the last foregoing section, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Forest-produce, tools, etc., when liable to confiscation.

54. (*1*) When any person is convicted of a forest-offence, all forest-produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence shall be liable, by order of the convicting Court, to confiscation.

(*2*) Such confiscation may be in addition to any other penalty prescribed for such offence.

Disposal on conclusion of trial for forest-offence of produce in respect of which offence was committed.

55. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed, shall, if it is the property of the Government or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf, and, in any other case, may be disposed of in such manner as the Court may order.

Procedure when offender is not known or cannot be found.

56. (*1*) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed may, on application in this behalf, order the property in respect of which the offence has been committed, to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate considers entitled to the same :

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

(*2*) The Magistrate shall either cause a notice of any application under sub-section (*1*) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he thinks fit.

Procedure as to perishable property seized under section 52.

57. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property, if it had not been sold.

Appeal from order under sections 54, 55 or 56.

58. Any person claiming to be interested in property seized under section 52 may, within one month from the date of any order passed by a Magistrate under section 54, section 55 or section 56, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Vesting of confiscated property in the Government.

59. When an order for the confiscation of any property has been passed under section 54 or section 56, and the period limited by section 58 for presenting an appeal from such order has elapsed and no such appeal has been presented, or when, on such an appeal being presented, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

60. Nothing hereinbefore contained shall be deemed to prevent any Forest-officer or other officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section 52 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

Penalty for wrongful seizure.

61. (*1*) Whoever, being a Forest-officer or Police-officer, vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Regulation, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Any fine imposed under sub-section (*1*), or any portion thereof, shall, if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,[1]— XLV of 1860.

(*a*) knowingly counterfeits upon any tree or timber a mark used by Forest-officers to indicate that such tree or timber is the property of the Government or of some person, or that it may lawfully be felled or removed by some person, or

(*b*) unlawfully affixes to any tree or timber a mark used by Forest-officers, or

(*c*) alters, defaces or obliterates any such mark placed on any tree or timber by or under the authority of a Forest-officer, or

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or wasteland to which any provisions of this Regulation apply,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

63. (*1*) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(*2*) Every officer making an arrest under sub-section (*1*) shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police-station.

Power to prevent commission of forest-offence.

64. Every Forest-officer and every Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to compound forest-offence.

65. (*1*) The Local Government may, by notification in the local official Gazette, empower a Forest-officer—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 61 or section 62, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(*3*) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub-section (*1*), clause (*a*), shall in no case exceed the sum of fifty rupees.

Presumption.

66. When in any proceedings taken under this Regulation, or in con-

sequence of anything done under this Regulation, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved. in favour of forest produce belonging to the Government.

67. (*1*) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise, in contravention of this Regulation, the convicting Court may, in addition to any other punishment which it may award, order that person to pay to the Government such compensation, not exceeding ten rupees for each tree, with respect to which the offence was committed, as it deems just. Compensation for damage caused by commission of forest-offence.

(*2*) If the person convicted of the offence committed it as the agent or servant of another person, the convicting Court may, unless after hearing that other person it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (*1*).

(*3*) An appeal from any order under sub-section (*1*) or sub-section (*2*) shall lie to the Court to which orders made by the convicting Court are ordinarily appealable, and the order passed on such appeal shall be final.

68. When the holder of any lease, license or contract whatsoever granted or continued by or on behalf of the Government for any of the purposes of this Regulation commits an offence against this Regulation, or when any such offence is committed by any agent or servant of the holder of any such lease, license or contract, and the Local Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any wilful neglect or default on his part, the Local Government may, by notification in writing, declare the lease, license or contract to be forfeited, in whole or in part, with effect on and from a date to be specified in the order. Forfeiture of leases.

CHAPTER IX.

CATTLE-TRESPASS.

69. Cattle trespassing in a reserved forest or in a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871,[1] and may be seized and impounded as such by any Forest-officer or Police-officer. Cattle-trespass Act, 1871, to apply.

I of 1871.

[1] Printed, General Acts, Vol. II, p. 183.

Power to alter fines fixed by Cattle-trespass Act, 1871.

70. The Local Government may, by notification in the local official Gazette, direct that, in lieu of the fines fixed by section 12 of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 69 of this Regulation such fines as it thinks fit, but not exceeding the following, namely :—

	R	A.
For each elephant	10	0
For each buffalo	2	0
For each horse, mare, gelding, pony, colt, filly mule, bull, bullock, cow or heifer.	1	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid . .	0	8

CHAPTER X.

FOREST-OFFICERS.

Investiture of Forest-officers with certain powers.

71. (*1*) The Local Government may invest any Forest-officer with all or any of the following powers, namely : —

(*a*) the powers of a Demarcation-officer under the Burma Boundaries Act, 1880[1]; V of 1880.

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure, 1898[2]; V of 1898.

(*d*) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence;

(*e*) power to notify the seasons and manner in which fire may be kindled, kept or carried in a reserved forest;

(*f*) power to grant any permission referred to in sections 27, 31 and 33;

(*g*) power to notify stations for the reception of drift-timber;

(*h*) power to give public notice of timber collected under section 46;

(*i*) power to take possession of property under this Regulation;

(*j*) power to direct the release of property or withdrawal of charges.

(*2*) Any evidence recorded under clause (*d*) of sub-section (*1*) shall be admissible in any subsequent trial before a Magistrate of the alleged offender :

[1] Printed, *supra*, p. 77

[2] Printed, General Acts, Vol. VI, p. 350.

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of
V of 1898. the Code of Criminal Procedure, 1898.[1]

Forest-officers to be deemed public servants.

72. All Forest-officers shall be deemed to be public servants within the
XLV of 1860. meaning of the Indian Penal Code.[2]

Indemnity for acts done in good faith.

73. No suit or criminal prosecution shall lie against any public servant for anything done or in good faith[3] intended to be done under this Regulation.

Forest-officers not to trade.

74. No Forest-officer shall, as principal or agent, trade in forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or foreign territory.

CHAPTER XI.

SUPPLEMENTAL PROVISIONS.

Additional power to make rules.

75. (*1*) In addition to the powers hereinbefore conferred, the Local Government may make rules[4] to carry out the objects and purposes of this Regulation.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Regulation on a Forest-officer are to be exercised or performed;

(*b*) regulate the procedure of Forest-settlement-officers; and

(*c*) regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Regulation or from the public treasury.

Publication and effect of rules.

76. All rules made by the Local Government under this Regulation shall be published in the local official Gazette, and shall thereupon have the same effect as if enacted by this Regulation.

Certain persons bound to furnish information and assist Forest-officers and Police-officers.

77. Every person who exercises any right in a reserved forest or village-forest, or who is permitted to remove any forest-produce from, or to pasture cattle or practise taungya-cultivation in, such forest, and

every person who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the

[1] Printed, General Acts, Vol. VI, p. 380.

[2] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

[3] For definition of "good faith," *see* General Clauses Act, 1897 (X of 1897), s. 3 (*20*). General Acts, Vol. VI, p. 316.

[4] *See* note to s. 25, *supra*.

Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish, without unnecessary delay, to the nearest Forest-officer or Police-officer, any information which he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest-offence, and shall assist any Forest-officer or Police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest ;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;

(*c*) in preventing the commission in such forest of any forest-offence ; and,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Recovery of money due to the Government.

78. All money, other than fines, payable to the Government under this Regulation or on account of the price of any forest-produce, or of expenses incurred in the execution of this Regulation in respect of any forest-produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of revenue.

Lien on forest-produce for money due to the Government.

79. (*1*) When any such money as is referred to in the last foregoing section is payable for, or in respect of, any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer specially empowered in this behalf and may be retained by him until such amount has been paid.

(*2*) If the amount is not paid when due, such Forest-officer may sell the produce by public auction and the proceeds of the sale shall be applied first in discharging such amount.

(*3*) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government.

The Government and its officers not liable for loss or damage in respect of certain forest-produce.

80. The Government shall not be responsible for any loss or damage which may occur in respect of any forest-produce while at a revenue-station established under section 43, sub-section (*2*), clause (*g*), or while detained elsewhere for the purposes of this Regulation, or in respect of any timber collected under section 46, and no Forest-officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously or fraudulently.

Land required under this Regula-

81. Whenever it appears to the Local Government that any land is required for any of the purposes of this Regulation, such land shall be deemed

to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.[1]

I of 1894.

tion to be deemed to be needed for a public purpose.

82. When any person, in compliance with any rule under this Regulation binds himself by any instrument to perform any duty or act, or covenants by any instrument that he, or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872,[2] be recovered from him in case of such breach as if it were an arrear of revenue.

Recovery of penalty due under bond.

IX of 1872.

VI of 1887. VIII of 1890.

83. The Upper Burma Forest Regulation, 1887, and the Upper Burma Forest Regulation, 1890, are repealed.

Repeal.

REGULATION No. II OF 1899.

[*Received the assent of the Governor General on the 22nd March, 1899; published in the* Gazette of India, *1899, Pt. I, p. 185; and in the* Burma Gazette, *1899, Pt. II, p. 135.*]

A Regulation to further amend the Upper Burma Towns Regulation, 1891.

WHEREAS it is expedient to further amend the Upper Burma Towns Regulation, 1891[3]; It is hereby enacted as follows:—

VI of 1891.

1. (*1*) This Regulation may be called the Upper Burma Towns Regulation, 1899; and

Short title and commencement.

(*2*) It shall come into force at once.

VI of 1891. XIII of 1898.

2. In section 7A, sub-section (*1*), of the Upper Burma Towns Regulation, 1891, as amended by the Burma Laws Act, 1898[4], for the word "village", the word "town" shall be substituted, and shall be deemed to have been substituted on and with effect from the commencement of the said Burma Laws Act, 1898.

Amendment of section 7A, Regulation VI, 1891, as amended by Act XIII, 1898.

[1] Printed, General Acts, Vol. VI, p. 100.
[2] Printed, General Acts, Vol. II, p. 299.
[3] Printed *supra* p. 367.
[4] Printed *supra* p. 260.

PART IV.

ACTS OF THE LIEUTENANT-GOVERNOR OF BURMA IN COUNCIL.

THE BURMA GENERAL CLAUSES ACT, 1898.

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BURMA ACT No. I OF 1898.[1]

(APPLIES TO LOWER AND UPPER BURMA.)

[*13th December, 1897.*]
[*14th February, 1898.*]

An Act for shortening the language in Acts of the Lieutenant-Governor of Burma in Council and for other purposes.

WHEREAS it is expedient to provide for shortening the language of Acts passed by the Lieutenant-Governor of Burma in Council, and to make certain other provisions relating to the construction of such Acts; It is hereby enacted as follows :—

Preliminary.

Short title, application and commencement.

1. (*1*) This Act may be called the Burma General Clauses Act, 1898;

(*2*) Notwithstanding anything in any other law or enactment for the time being in force, it shall apply to all the territories for the time being administered by the Lieutenant-Governor of Burma, including the Shan States,[2] the Chin Hills, and the Kachin Hill Tracts.[3]

(*3*) It shall come into force on the 1st March, 1898.

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1897, Part III, p. 24; for Report of the Select Committee, *see ibid*, p. 79; and for Proceedings in Council, *see ibid*, Supplement, pp 1280 and 1351.

[2] As to law in force in the Shan States, *see* Pt. V, *infra*, p. 604.

[3] As to law applicable to Hill-tribes in these tracts, *see* Regulations V of 1896 and I of 1895, printed, *supra*, Pt. III, pp. 410 and 381, respectively.

General Definitions.

Definitions. **2.** In this Act, and in all Acts of the Lieutenant-Governor of Burma in Council, unless there is anything repugnant in the subject or context,—

"Abet." (*1*) "abet," with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code[1]: XLV of 1860

"Act." (*2*) "act," used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions:

"Affidavit." (*3*) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing:

"Barrister." (*4*) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland:

"British India." (*5*) "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India, or through any Governor or other officer subordinate to the Governor-General of India:

"British possession." (*6*) "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

"Burma." (*7*) "Burma" shall mean all the territories administered for the time being by the Lieutenant-Governor of Burma[2]:

"Burma Act" (*8*) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861[3] and 1892: 24 & 25 Vict., c. 67; 55 & 56 Vict., c. 14.

"Chapter." (*9*) "Chapter" shall mean a chapter of the Act in which the word occurs:

"Chin Hills." (*10*) "Chin Hills" shall mean the territories for the time being known as the Chin Hills[4]:

"Chins." (*11*) "Chins" shall include also (*a*) Lushais, (*b*) Kukis, (*c*) Burmans domiciled in the Chin Hills, and (*d*) any persons who have adopted the customs and languages of the Chins and are habitually resident in the Chin Hills;

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

[2] *Cf.* definition in s. 3 (*a*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 261.

[3] Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

[4] *Cf.* definition of the expression "Chin Hills" in s. 3 (*o*) of the Burma Laws Act, 1898, (XIII of 1898), printed, *supra*, p. 261.

(*12*) "Collector" shall mean the chief officer in charge of the revenue administration of a district : "Collector."

(*13*) "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony : "Colony."

(*14*) "commencement," used with reference to an Act, shall mean the day on which the Act comes into force : "Commencement."

(*15*) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division : "Commissioner."

(*16*) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul, or consular agent : "Consular officer."

(*17*) "Deputy Commissioner" shall mean the chief officer in charge of the general administration of a district : "Deputy Commissioner."

(*18*) "District Court" shall mean a Principal Civil Court of original jurisdiction : "District Court."

(*19*) "District Judge" shall mean the Judge of a District Court : "District Judge."

(*20*) "document" shall include any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter : "Document."

(*21*) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid : "Enactment."

(*22*) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father : "Father."

(*23*) "financial year" shall mean the year commencing on the first day of April : "Financial year."

(*24*) "gazette" shall mean the local official Gazette for Burma : "Gazette."

(*25*) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not : "Good faith."

(*26*) "Government" or "the Government" shall include the Local Government as well as the Government of India : "Government."

(*27*) "Government of India" shall mean the Governor General in Council, or, during the absence of the Governor General from his "Government of India."

Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively :

"Her Majesty" or "the Queen."

(*28*) "Her Majesty" or "the Queen" shall include Her successors :

"Immoveable property."

(*29*) "immoveable property" shall include land, benefits to arise out of land and things attached to the earth, or permanently fastened to anything attached to the earth :

"Imprisonment."

(*30*) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code.[1] XLV of 1860.

"India."

(*31*) "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India, or through any Governor or other officer subordinate to the Governor General of India :

"Kachin Hill Tract."

(*32*) "Kachin Hill Tract" shall mean a hill tract to which the Kachin Hill Tribes Regulation, 1895,[2] has been extended by notification under that Regulation : Reg. I of 1895.

"Kachin Hill Tribe."

(*33*) "Kachin Hill Tribe" shall mean a hill tribe to which the Kachin Hill Tribes Regulation, 1895, has been made applicable by notification under that Regulation : Reg. I of 1895.

"Local Authority."

(*34*) "local authority" shall mean a municipal committee, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local funds :

"Local Government."

(*35*) "Local Government" shall mean the Lieutenant-Governor of Burma :

"Magistrate."

(*36*) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure[3] for the time being in force :

"Master" (of a ship).

(*37*) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship :

"Month."

(*38*) "month" shall mean a month reckoned according to the British calendar :

"Moveable property."

(*39*) "moveable property" shall mean property of every description, except immoveable property :

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

[2] Printed, *supra*, p. 381.

[3] *See* Act V of 1898, printed, General Acts, Vol. VI, p 380.

(*40*) "notification" shall mean a notification in the gazette: "Notification."

(*41*) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Oath."

(*42*) "offence" shall mean any act or omission made punishable by any law for the time being in force: "Offence."

(*43*) "part" shall mean a part of the Act in which the word occurs: "Part."

(*44*) "person" shall include any company or association or body of individuals, whether incorporated or not: "Person."

(*45*) "Political Agent" shall include— "Political Agent."

(*a*) the principal officer representing the Government in any territory or place beyond the limits of British India, and

(*b*) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition:

(*46*) "Privy Council" shall mean the Lords and others for the time being of Her Majesty's Most Hon'ble Privy Council: "Privy Council."

(*47*) "province" shall mean the territories for the time being administered by any Local Government: "Province."

(*48*) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code[1]: "Public nuisance."

XLV of 1860.

(*49*) "Rangoon Town" shall mean the Rangoon Town District as for the time being defined for purposes of revenue and general administration: "Rangoon Town."

(*50*) "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents: "Registered."

(*51*) "Regulation" shall mean a Regulation made under the Government of India Act, 1870[2]: "Regulation."

33 Vict., c. 3.

(*52*) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment: "Rule."

(*53*) "schedule" shall mean a schedule to the Act in which the word occurs: "Schedule."

[1] *See* first footnote on page opposite.

[2] Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p, 878.

"Scheduled District." (*54*) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874[1]: XIV of 1874.

"Section." (*55*) "section" shall mean a section of the Act in which the word occurs:

"Shan States." (*56*) "Shan States" shall mean the territory for the time being notified under sub-section (*3*) of section 8 of the Upper Burma Laws Act, 1886[2]: XX of 1886.

"Ship." (*57*) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

"Sign." (*58*) "signs" with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name include "mark" with its grammatical variations and cognate expressions:

"Son." (*59*) "son," in the case of any one whose personal law permits adoption, shall include an adopted son:

"Sub-section." (*60*) "sub-section" shall mean a sub-section of the section in which the word occurs:

"Swear." (*61*) "swear," with its grammatical variations and cognate expressions shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing:

"Vessel." (*62*) "vessel" shall include any ship or boat or any other description of vessel used in navigation:

"Will." (*63*) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property:

"Writing." (*64*) expressions referring to "writing" shall be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form: and

"Year." (*65*) "year" shall mean a year reckoned according to the British calendar.

Definitions of Lower Burma and Upper Burma.

3. In this Act and in any Act subsequent thereto the expressions "Upper Burma" and "Lower Burma" shall mean respectively the territories for the time being included in Upper Burma and Lower Burma within the meaning, and pursuant to the provisions, of section 2 of the Upper Burma Laws Act, 1886.[3] XX of 1886.

[1] Printed,, General Acts., Vol. II, p. 467.

[2] *See* now s. 3 (*e*) of the Burma Laws Act, 1898 (XIII of 1898) by which Act XX of 1886 has been repealed. It is printed, *supra*, p. 261.

[3] *See* now definitions in s. 3 (*d*) and (*f*) of the Burma Laws Act, 1898 (XIII of 1898).

General Rules of Construction.

Coming into operation of enactments.

4. (*1*) Where any Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the assent of the Governor General thereto is first published in the gazette in pursuance of sections 40 and 48 of the Indian Councils Act, 1861.[1]

24 & 25 Vict., c. 67.

(*2*) Unless the contrary is expressed, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Effect of repeal.

5. Where any Act repeals any enactment hitherto made or hereafter to be made, then unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(*c*) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or

(*d*) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act had not been passed.

Revival of repealed enactments.

6. In any Act it shall be necessary, for the purpose of reviving, either wholly or partially any enactment wholly or partially repealed, expressly to state that purpose.

Construction of references to repealed enactments.

7. Where any Act repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commencement and termination of time.

8. In any Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Computation of time.

9. Where by any Act any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed

[1] Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877,[1] applies. XV of 1877.

Measurement of distances.

10. In the measurement of any distance, for the purpose of any Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be taken *pro-rata* in enactments

11. Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure, or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and number.

12. In all Acts, unless there is anything repugnant in the subject or context,—

(*1*) words importing the masculine gender shall be taken to include females; and

(*2*) words in the singular shall include the plural, and *vice versâ*.

Application of Burma Acts.

13. Unless and until extended under section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886,[2] or applied under section 3, sub-section (*2*), of the Kachin Hill Tribes Regulation, 1895,[3] or under section 3, sub-section (*2*), of the Chin Hills Regulation, 1896,[3] no Act shall, in the absence of express provision to the contrary, come into force in all or any of the Shan States or any specified local area therein, or shall apply to the members of the Kachin Hill tribe in a Kachin Hill tract or to Chins in the Chin Hills, as the case may be. XX of 1886. Reg. I of 1895. Reg. V of 1896.

Powers and Functionaries.

Powers conferred on the Government to be exerciseable from time to time.

14. Where, by any Act, any power is conferred or any duty imposed then that power may be exercised and that duty shall be performed from time to time as occasion requires.

Power to appoint, to include power to appoint *ex-officio*.

15. Where, by any Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

[1] *See* now the revised edition of the Act as modified up to 1st April,—1899, published by the Legislative Department.

[2] *See* now s 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 263.

[3] Printed, *supra*, pp. 381 and 410 respectively.

(Powers and Functionaries. Secs. 16-19. Provisions as to Orders, Rules, etc., made under Enactments. Secs. 20-23.)

Power to appoint to include power to suspend or dismiss.

16. Where, by any Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substitution of functionaries.

17. In any Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Successors.

18. In any Act it shall be sufficient for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Official Chiefs and subordinates.

19. In any Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders, etc., issued under enactments.

20. Where by any Act a power to issue any order, scheme, rule, form or bye-law is conferred, the expressions used in the order, scheme, rule, form or bye-law shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Power to make, to include power to add to, amend, vary or rescind orders, rules, or bye-laws.

21. Where by any Act a power to make orders, rules, or bye-laws is conferred, then that power includes a power, exerciseable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules, or bye-laws so made.

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

22. Where by any Act which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the passing of the Act, but rules, bye-laws, or orders so made or issued shall not take effect till the commencement of the Act.

23. Where by any Act a power to make rules or bye-laws is expressed to provisions

applicable to making of rules or bye-laws after previous publication.

be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely—

(*1*) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;

(*2*) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government prescribes;

(*3*) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(*4*) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval, or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(*5*) the publication in the gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication, shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

24. Where any enactment is repealed and re-enacted by an Act with or without modification, then, unless it is otherwise expressly provided, any order, scheme, rule, form, or bye-law issued under the repealed Act shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been issued under the provisions so re-enacted, unless and until it is superseded by any order, scheme, rule, form or bye-law issued under the provisions so re-enacted.

Miscellaneous.

Recovery of fines.

25. Sections 63 to 70 of the Indian Penal Code[1] and the provisions of the Code of Criminal Procedure[2] for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule, or bye-law, unless the Act, Regulation, rule, or bye-law contains an express provision to the contrary. XLV of 1860.

Provision

26. Where an act or omission constitutes an offence under two or more

[1] *See* now the revised edition of the Act as modified up to July, 1999, published by the Legislative Department.

[2] *See* ss. 386 to 389, Act V of 1898, printed, General Acts, Vol. VI, Ed. 1898, p. 380.

enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence. as to offences punishable under two or more enactments.

27. Where any Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post. Meaning of service by post.

28. (*1*) In any Act, and in any rule, bye-law, instrument, or document made under, or with reference to, any Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon, or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained. Citation of enactments.

(2) In this Act and in any Act a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

THE BURMA FERRIES ACT, 1898.

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BURMA ACT No. II OF 1898.[1]

[APPLIES TO UPPER AND LOWER BURMA.]

[*20th December, 1897; 14th April, 1898.*]

An Act to amend the law regulating Public Ferries in Burma.

WHEREAS it is expedient to amend the law regulating public ferries in Burma; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Burma Ferries Act, 1898;

(*2*) It extends to the whole of Burma (inclusive of Upper Burma) except the Shan States; and

(*3*) It shall come into force at once.

Repeal.

II of 1873. **2.** The Burma Ferries Act, 1873, is repealed.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "ferry" includes also a bridge of boats, pontoons or rafts, a swing bridge, a flying bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry:

(*2*) "Superintendent" means the Deputy Commissioner or the Municipal or Town Committee vested with the immediate superintendence of a public ferry under section 5 or section 6, as the case may be:

(*3*) "Deputy Superintendent" means any person appointed by the Superintendent under section 14, clause (*j*):

(*4*) "lessee" means a person to whom the right of levying tolls at a public ferry has been let under section 7:

(*5*) "Commissioner" and "Deputy Commissioner" mean, respectively, the Commissioner of the division and the Deputy Commissioner of the district in which a ferry is, under section 4, deemed to be situate:

(*6*) "notification" means a notification published in the *Burma Gazette*:

(*7*) "toll-collector" means a person appointed by the Superintendent to levy tolls at a public ferry the right to levy the tolls of which has not been let under section 7: and

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1897, Pt. III, p. 29, and for Proceedings in Council, *see ibid*, Supplement, pp. 1237 and 1352.

(*8*) "boat" includes a launch propelled by steam or electricity and a raft.

PART II.

PUBLIC FERRIES.

Power to declare and establish public ferries.

4. The Local Government may, by notification,[1]—

[1](*a*) declare what ferries shall be deemed public ferries and the respective districts in which they shall, for the purposes of this Act, be deemed to be situate;

(*b*) establish new public ferries where, in its opinion, they are necessary, and declare in what districts respectively they shall, for the purposes of this Act, be deemed to be situate;

(*c*) define and alter the limits of any public ferry;

(*d*) change the course of any public ferry;

(*e*) discontinue any public ferry which it deems unnecessary; and

(*f*) declare the proportions in which all tolls levied, [2][moneys received under section 29 or by way of composition], and rents recovered, under this Act in respect of a public ferry shall be credited to two or more funds.

Control and superintendence of public ferries.

5. (*1*) The control of all public ferries shall be vested in the Commissioner.

(*2*) The immediate superintendence of all public ferries shall, save as hereinafter provided, be vested in the Deputy Commissioner, and the Deputy Commissioner shall, except when the right to levy the tolls is leased, make all necessary arrangements for the supply of boats for such ferries and for the collection of the authorized tolls leviable thereat.

Superintendence may be vested in local Municipality or Town Committee and proceeds paid into Municipal or Town Fund.

6. The Local Government may, by notification, vest the immediate superintendence of any public ferry situated wholly or partly within the limits of a Municipality or town in the Municipal or Town Committee thereof, and may direct that all or any part of the tolls levied, [2][moneys received under section 29 or by way of composition], and rents recovered, under this Act in respect of such public ferry shall be credited to the Municipal or Town Fund of such Municipality or town.

Letting public ferry tolls.

7. (*1*) The right to levy the tolls of any public ferry may be let by the Superintendent by public auction, subject to the rules (if any) made under section 12, clauses (*c*) and (*e*), or, with the previous sanction of the Local Government, otherwise than by public auction:

[1] For instances of notifications under this clause, *see* Burma Gazette, 1899, Pt. I, pp. 154 and 352.

[2] These words in ss. 4, (*f*) and 6 were substituted for the words "moneys received by way of compensation or composition," by s. 1 of Burma Act II of 1899, printed, *infra*, p. 580.

Provided that, for reasons to be recorded by him in writing, any officer conducting a sale by auction under this section may refuse to accept the offer of the highest bidder and accept any other bid, or may withdraw from the auction.

(*2*) The lessee and his servants shall conform to the rules under this Act for the management and control of any public ferry of which the right to levy the tolls has been let to such lessee under this section, and shall obey all lawful orders issued to him or them by the Superintendent or Deputy Superintendent.

Recovery of arrears of rent.

8. (*1*) All fees, rents, penalties and other moneys due to the Government or to a Municipal Fund in respect of any lease or agreement to lease under this Act may be recovered from the lessee or his surety (if any) or from any person who has agreed to take a lease as if they were arrears of land revenue.

(*2*) The Local Government may make rules declaring on whose application and by whose order process shall issue for the recovery of any sum so due.

Surrender of lease.

9. The lessee may surrender his lease on the expiration of three months' notice in writing to the Superintendent and on payment of the rent for such three months.

Prohibition of sub-letting.

10. The lessee shall not transfer his lease without the permission in writing of the Superintendent.

Cancellation of lease with compensation

11. (*1*) The Local Government may cancel any lease under this Act on the expiration of six months' notice in writing to the lessee of its intention to cancel the same.

(*2*) When any lease is cancelled under sub-section (*1*), the Superintendent shall pay to the lessee such compensation as such Superintendent may, with the previous sanction of the Commissioner, think fit to award.

Power to make rules.

12. (*1*) The Local Government may make rules, consistent with this Act,—

(*a*) for the superintendence and management of all or any particular public ferries;

(*b*) for regulating the traffic at such ferries;

(*c*) prescribing the time and manner in which, and the terms on which, the right to levy the tolls of such ferries may be let;

(*d*) regulating the manner in which a lease shall be dealt with in case of the death or insolvency of the lessee or of the attachment of his property;

(*e*) for regulating the conduct of auctions and prescribing the persons by whom auctions may be conducted;

(*f*) for compensating persons who have compounded for tolls when a public ferry has been discontinued before the expiration of the period compounded for and for recovering such compensation as if it were an arrear of land-revenue from the person who received the composition, and paying it to the persons entitled;

(*g*) prescribing the circumstances under which the person in charge of a public ferry-boat may refuse to convey in it any passenger, animal, vehicle or thing;

(*h*) for the regular maintenance of public ferry-boats in good condition for the safe conveyance of passengers and property;

(*i*) for the submission of returns of traffic by the lessee or person in charge of a public ferry; and

(*j*) generally, for carrying out the purposes and objects of this Act.

(*2*) In making any rule under sub-section (*1*), the Local Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

Publication of rules.

13. Rules made under section 12 shall be published in such manner as the Local Government may, by notification, prescribe.

Powers of Superintendent.

14. Subject to such rules as may be made under section 12 and to the control of the Commissioner, the Superintendent may, for each public ferry—

(*a*) fix the places of embarkation and debarkation;

(*b*) fix the number and kinds of ferry-boats to be used, their dimensions and equipment, the number of crew for each ferry-boat, and the width of the bridges (if any);

(*c*) determine the maximum number of passengers, vehicles and animals and the maximum weight of goods to be carried in each ferry-boat at one trip;

(*d*) regulate the times of opening and the construction and maintenance of pontoons, flying bridges, swing bridges, boat bridges, and temporary bridges;

(*e*) appoint any person, by name or by virtue of his office, to inspect the ferry-boats and their equipment;

(*f*) require the lessee (if any) to affix to each ferry-boat employed by him in the public ferry a distinguishing mark, or flag of a prescribed pattern, and to keep in a prescribed place a notice-board showing the maximum number of passengers, vehicles and animals and the maximum quantity of goods to be carried therein;

(*g*) fix the hours during which the public ferry shall ply, and the number of trips which the ferry-boat or boats shall make;

(*h*) require the lessee (if any) to maintain in a prescribed form, and, when so required by any officer authorized, by name or by virtue of his office, in this behalf by the Superintendent, to produce registers of passengers, vehicles, animals and goods conveyed across the ferry;

(*i*) require the lessee (if any) to maintain weights, measures and scales for the weighment or measurement of goods; and

(*j*) appoint, by name or by virtue of his office, a person to be in charge of the ferry.

Private ferry not to ply within certain distance of public ferry without sanction.

15. (*1*) No person shall, except with the sanction of the Superintendent, ply a ferry-boat for hire within the limits of a public ferry or, except with the sanction of the Deputy Commissioner, establish, maintain or work a ferry within two miles from a public ferry.

(*2*) Subject to the provisions of section 16, sub-section (*1*), nothing in this section shall be construed to prevent any person from plying between two places one of which is without and one within the said limits, when the distance between such places is not less than two miles, or shall be held to apply to boats which do not ply for hire, or to any boats which the Local Government may, by notification, exempt from the operation of this section.

PART III.

TOLLS.

Tolls.

16. (*1*) Tolls, according to such rates as may from time to time be fixed by the Commissioner,[1] shall be levied on all persons, animals, vehicles and goods conveyed across any public ferry.

(*2*) The Local Government may from time to time, by notification, declare what persons, animals, vehicles or goods shall, when employed or transmitted on the public service, or for other sufficient reason, be exempt from payment of such tolls.

(*3*) The Commissioner may fix rates according to which persons may compound for the tolls payable during a quarter or other period.

(*4*) With the previous sanction of the Commissioner, the Superintendent may fix rates of toll for the use of any specially constructed landing-place by persons not liable to pay the tolls fixed under sub-section (*1*).

Abatement of rent claimable in certain cases.

17. Where the right to levy the tolls of any public ferry has been let by auction under section 7, any declaration made under sub-section (*2*) of the last foregoing section, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be awarded by the Superintendent subject to appeal to the Commissioner.

[1] For instance of notification imposing such tolls, *see* Burma Gazette, 1889, Pt. IV, pp. 167, 328.

Table of tolls.

18. The lessee or toll-collector of every public ferry shall affix a table of the tolls leviable under this Act, legibly written or printed in Burmese and in such vernacular language or languages as the Superintendent may prescribe, in a conspicuous position at each landing-place and in every ferry-boat, and shall be bound to produce on demand a list of such tolls signed by the Superintendent or by some person authorized by the Superintendent to sign the same on his behalf.

Tolls, rents, etc., to be credited to District Fund.

19. All tolls levied, [1][moneys received under section 29 or by way of composition,] and rents recovered, under this Act shall, except in the cases provided for [2][under powers conferred by sections 7 and 30], be credited—

(*a*) in the manner directed under section 4, clause (*f*), or

(*b*) in the manner directed under section 6, or

(*c*) in the absence of any directions to the contrary, to the District Fund of the district in which the public ferry concerned is deemed to be situated.

PART IV.

PENALTIES.

Penalty for failing to affix or for removing, altering or defacing table of tolls.

20. Every lessee or toll-collector who—

(*a*) neglects to affix and keep in good order and repair the table of tolls mentioned in section 18, or

(*b*) wilfully removes, alters, or defaces such table, or allows it to become illegible, or

(*c*) fails to produce on demand the list of tolls mentioned in section 18, or

(*d*) neglects to keep any register or to furnish any return prescribed under section 12 or section 14, or

(*e*) commits a breach of any provision of this Act, or of any rule thereunder, for which no punishment is specially provided, or

(*f*) disobeys or fails to comply with any lawful order issued to him by the Superintendent or Deputy Superintendent,

shall be punishable with fine which may extend to twenty rupees.

Penalty for taking unauthorized toll and

21. Every lessee or toll-collector, or servant or agent of either, asking or taking more than the toll leviable under this Act, or without due cause delaying or interfering with any person, animal, vehicle or goods lawfully

[1] These words were substituted for the words "money received by way of compensation or composition," by s. 2 of Burma Act II of 1899, printed, *infra*, p. 580.

[2] These words were substituted for the words "by sections 28 and 30", by s. 2 of Burma Act II of 1899.

crossing a public ferry, shall be punishable with fine which may extend to fifty rupees. for causing delay.

22. When any lessee makes default in the payment of the rent or of any instalment thereof, or, having been convicted of an offence under section 20 or section 21, is again convicted of any such offence, the Superintendent may, with the previous sanction of the Commissioner, cancel the lease and make other arrangements for the working of the public ferry during the remainder of the term for which the right to levy tolls was let. Cancellation of lease on default or breach of rules.

23. The Superintendent may, with the previous sanction of the Commissioner, cancel a lease granted under this Act, if the lessee after fifteen days' notice fails to make due provision for the convenience or safety of the public. Cancellation of lease on failure to provide accommodation.

24. When the lease of the right to levy the tolls of a public ferry is surrendered or cancelled, the Superintendent may take possession of all boats and their equipments, and all other appliances used by the lessee, and may use them until he can procure substitutes, paying such hire for use of the same as the Commissioner may in each case direct. Power to take possession of boats, etc., on surrender or cancellation of lease.

25. Whoever plies a ferry-boat for hire, or establishes, maintains or works a ferry in contravention of the provisions of section 15 shall be punishable with fine which may extend to five hundred rupees, and, after a first conviction, with a further fine which may extend to one hundred rupees for every day during which such ferry-boat is plied for hire, or such ferry is maintained or worked by him in contravention of those provisions. Maintaining private ferry within prohibited limits.

26. Whoever— Penalties on passengers offending.

(*a*) refuses to pay the proper toll on crossing at a public ferry or on using a landing-place for which a toll has been fixed under section 16, sub-section (*1*), or

(*b*) fraudulently or forcibly crosses, or attempts to cross any public ferry or to use any such landing-place as aforesaid without paying such toll, or

(*c*) obstructs any toll-collector or lessee, or any of his assistants in any way in the execution of his duty under this Act, or

(*d*) after being warned by any toll-collector, lessee or person in charge of a public ferry-boat or bridge not to do so, himself goes or takes any animals, vehicles or goods into any public ferry-boat or upon any bridge at a public ferry which is in such a state or so loaded as to endanger human life or property, or

(*e*) refuses or neglects to leave any such public ferry-boat or bridge or to remove any animals, vehicles or goods therefrom on being

requested by such toll-collector, lessee or person in charge thereof to do so, or

(*f*) obstructs any part of a public ferry,

shall be punishable with fine which may extend to fifty rupees.

Penalty for plying within public ferry limits without license.

27. Whoever conveys for hire any passenger, animal, vehicle or goods to or from any point within the limits assigned to a public ferry in contravention of the provisions hereinbefore contained, shall be punishable with fine which may extend to fifty rupees.

Power to arrest without warrant.

[1]**28.** Any police-officer may arrest without warrant any person committing an offence punishable under section 26 :

Provided that every person so arrested shall be released on his giving bail or, if his true name and address are ascertained, on his executing a bond without sureties for his appearance before a Magistrate when required.

Court may assess damage done.

[1]**29.** (*1*) The Court trying any offence under this Act may enquire into and assess the amount of the damage (if any) done or caused by the offender to the public ferry concerned, and shall order the amount so assessed to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine.

(*2*) An appeal shall lie against every such order as if it were a sentence of fine passed under this Act.

Fines payable to lessee.

[1]**30.** Where the right to levy the tolls of any public ferry has been let under section 7, the whole or any portion of fine realized under section 25, section 26 or section 27 [2][and the whole or any portion of the amount realized under section 29] may, if the convicting Magistrate so directs, be paid to the lessee.

Power to try summarily.

31. Every bench of Magistrates invested under section 261 of the Code of Criminal Procedure, 1882,[3] with power to try summarily the offences therein mentioned, shall also have power to try summarily any offence under this Act. X of 1882.

PART V.

MISCELLANEOUS.

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32. (*1*) The Local Government may, by notification, delegate to the Commissioner, subject to such restrictions as it may think fit to prescribe, any of the powers conferred on it by this Act.

[1] Ss. 28, 29 and 30 were originally ss. 29, 30 and 28, respectively. They were placed and re-numbered as they now stand, by s. 3 (*2*) of Burma Act II of 1899.

[2] These words were inserted by s. 3 (*1*) of Burma Act II of 1899, *infra*, p. 580.

[3] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

(2) The Local Government may, by notification, confer upon a Municipal Committee all or any of the powers of the Commissioner in respect of the public ferry of which the immediate superintendence is vested in such Committee under section 6.

Power to take possession of boats in case of public emergency.

33. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of troops, police or other persons on the business of Her Majesty, or of any animals, vehicles or goods attached or belonging to such troops or police or other persons as aforesaid, the Deputy Commissioner may take possession of and use the same until such transport is completed, paying such compensation or hire for the use of the same as the Commissioner may in each case direct.

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34. No suit to ascertain the amount of any compensation payable, or of any abatement of rent allowable, under this Act shall be brought in any Civil Court.

THE BURMA MUNICIPAL ACT, 1898.

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BURMA ACT No. III OF 1898.[1]

(APPLIES TO LOWER AND UPPER BURMA.)

[*10th March, 1898, 25th April, 1898.*]

An Act to amend the law relating to Municipalities in Burma.

WHEREAS it is expedient to amend the law relating to Municipalities in Burma; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Burma Municipal Act, 1898;

(2) It extends to the whole of Burma (inclusive of Upper Burma) except the Shan States; and

(*3*) It shall come into force on such date as the Local Government may, by notification in the gazette, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Commissioner" means the Commissioner of the division in which a municipality is situated:

(*2*) "committee" means the committee constituted by or under this Act for a municipality:

(*3*) "Deputy Commissioner" means the Deputy Commissioner of the district in which a municipality is situated:

(*4*) "inhabitant" of a local area includes any person ordinarily residing or carrying on business, or owning or occupying immoveable property, in such local area:

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1897, Pt. III, p. 72; for Report of the Select Committee, *ibid*, 1898, p. 2; for Proceedings in Council relating to the Bill, *see ibid*, 1897, Supplement, p. 1233, *ibid*, 1898, Supplement, pp. 40 and 73.

(*5*) "keeper" of a lodging-house means the person in charge of a lodging-house :

(*6*) "lodging-house" means a building or part of a building which is let in lodgings or occupied to any extent in common by members of more than one family :

(*7*) "municipality" means a local area declared under Chapter II to be a municipality :

(*8*) "owner" includes the person who for the time being receives the rent of any building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant, but does not include the Government :

(*9*) "sewage" means night-soil and other proper contents of water-closets, latrines, urinals, privies, and cesspools : it includes polluted water from sinks, bath-rooms, stables, cattle-sheds and other like places :

(*10*) "sewer" includes a pipe, ditch or channel, or any other device, for carrying off sewage :

(*11*) "sewerage-connection" includes—

(*a*) any sewer between any water-closet, latrine, urinal, privy, bath-room, cook-room, sink, sulliage-tray, manhole or trap on the one hand, and any sewer set apart by a committee for sewage and other offensive matter on the other hand ; and

(*b*) any cistern, flush-tank, land, building, machinery, work or thing constructed or used for collecting and passing any sewage into any sewer vested in a committee :

(*12*) "street" includes any way, road, thoroughfare, passage or place over which the public have a right of way : and also the surface-soil sub-soil, footway and drains of any street, and any bridge, culvert or causeway forming part thereof : and

(*13*) "water-connection" includes—

(*a*) any tank, cistern, hydrant, stand-pipe, meter or tap situated on private property and connected with a water-main or pipe belonging to the committee ; and

(*b*) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

Proposal to create, alter the limits of, or abolish, municipality.

3. (*1*) The Local Government may, by notification and by such other means as it may determine, signify its intention—

(*a*) to declare any town, or any group of towns in the immediate neighbourhood of one another, a municipality under this Act;

(*b*) to include within a municipality any local area in the vicinity of the same;

(*c*) to exclude from a municipality any local area comprised therein; or

(*d*) to withdraw the whole area comprised in any municipality from the operation of this Act:

Provided that, when any part of a local area affected by any such notification is a military cantonment or part of a military cantonment, such notification shall not be published without the previous consent of the Governor General in Council.

(*2*) Every notification under this section shall define the limits of the local area proposed to be affected thereby, and may include within the limits of any municipality or proposed municipality any railway station, village, building or land in the vicinity thereof.

Creation, alteration of limits, or abolition of municipality.

4. (*1*) Any inhabitant of any part of a local area defined in a notification published under section 3 and proposed to be affected thereby may, if he objects to anything therein contained, submit his objection in writing to the Local Government within six weeks from the date of the publication of such notification, and the Local Government shall take his objection into consideration.

(*2*) When six weeks from the date of the publication of such notification have expired, the Local Government may by a further notification—

(*a*) declare the local area or any specified part thereof to be a municipality under this Act, or

(*b*) include the local area or any part thereof in the municipality or exclude it therefrom, or

(*c*) [1] withdraw the whole area comprised in the municipality from the operation of this Act, as the case may be.

Application of Act to existing municipalities.

XVII of 1884. V of 1887.

5. (*1*) All municipalities heretofore established under the Burma Municipal Act, 1884,[2] and the municipality of Mandalay established under the Upper Burma Municipal Regulation, 1887,[3] shall be deemed to be municipalities under this Act.

[1] For instance of such withdrawal, *see* notification No. 82, Burma Gazette, 1899, Pt. I, p. 394.

[2] Repealed by the Burma Laws Act, 1898 (XIII of 1898). *See* the Fifth Schedule, printed, *supra*, p. 287.

[3] Printed, *supra*, p. 316.

(*2*) The Local Government may, by notification, direct that this Act shall apply to any other municipality established under the Upper Burma Municipal Regulation.

(*3*) The president, vice-president and members of the committee of every municipality mentioned in sub-section (*1*), or in a notification under sub-section (*2*), in office at the time when this Act applies to that municipality, shall continue in office as such president, vice-president and members respectively under this Act until the time or respective times when they would respectively have vacated their offices if this Act had not been passed or if such notification had not been issued.

Effect of including or excluding local area in or from municipality.

6. (*1*) When a local area is included in a municipality under section 4, all rules and bye-laws made, orders, directions and notices issued, and powers conferred and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the Local Government shall, in and by the notification directing such inclusion, otherwise direct.

(*2*) When a local area is excluded from a municipality under section 4,—

(*a*) this Act and all rules and bye-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto; and

(*b*) the Local Government shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal, school and hospital funds and other property vested in the committee shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of such scheme in the gazette, such property and liabilities shall vest and be apportioned accordingly.

(*3*) When the whole area comprised in any municipality is withdrawn from the operation of this Act under section 4, this Act and all rules and bye-laws made, orders, directions or notices issued, and powers conferred thereunder, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the committee shall vest in Her Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(*4*) All property vested in Her Majesty under this section shall be applied, under the orders of the Local Government, to the discharge of the liabilities imposed on the Secretary of State for India in Council thereby,

or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area affected.

CHAPTER III.

ORGANIZATION OF MUNICIPAL COMMITTEES.

Constitution of Committees.

Committee to consist of elected and appointed members.

7. (*1*) There shall be constituted for each municipality under this Act a committee having authority thereover and consisting of—

(*a*) so many inhabitants of the municipality as may be determined by the Local Government, elected in manner next hereinafter prescribed to represent wards of the municipality or classes of the inhabitants; and

(*b*) such persons (if any), not exceeding in number one-fourth of the committee, as the Local Government may appoint by name or by office in this behalf:

Provided that,—

(i) when the circumstances of the municipality are, in the opinion of the Local Government, such as to require it, the Local Government may appoint a larger proportion of, or all, the members of the committee; and,

(ii) when any places on the committee are required to be filled by election and a sufficient number of members is not elected, the Local Government may fill by appointment the places so left vacant.

(*2*) The Local Government may by notification delegate to the Commissioner the power of appointment vested in it under sub-section (*1*) in respect of any committee or any vacancy in any committee.

Power for Local Government to make rules regarding election of members of Committees.

8. (*1*) The Local Government shall, for every municipality in which a system of election is introduced, make rules regulating the following matters, namely:—

(*a*) the division of the municipality into wards or of the inhabitants into classes, or both;

(*b*) the number of representatives proper for each ward or class;

(*c*) the qualifications of electors and of candidates for election;

(*d*) the registration of electors;

(*e*) the nomination of candidates, the time of election and the mode of recording votes; and

(*f*) any other matters relating to the system of representation and of election for which it may seem expedient to provide.

(*2*) The Local Government may, after the committee has come into existence as hereinafter provided, amend, after consulting such committee, the rules under this section.

(*3*) The members of the committee shall be elected in accordance with the rules under this section for the time being in force.

Term of office of members of committee.

9. (*1*) If a member of the committee be appointed by office, the person for the time being holding such office, shall, unless and until the Local Government shall otherwise direct, be a member of the committee.

(*2*) The term of office of all other members of the committee shall be fixed by the Local Government by rules, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(*3*) The term of office of members shall commence,—

(*a*) in the case of a member elected at a general election of members, on the first day of January following the election ;

(*b*) in the case of a member elected to fill a casual vacancy, on the date of the meeting of the committee next following his election ; and

(*c*) in the case of a member appointed by the Local Government or the Commissioner, on the date specified in the order appointing him or, if no date is so specified, on the date of such order.

(*4*) An outgoing member may, if otherwise qualified, be re-elected or re-appointed.

Resignation of member of committee.

10. (*1*) Any member of the committee who may wish to resign shall forward his resignation in writing, through the president of the committee, to the Deputy Commissioner for submission to the Commissioner.

(*2*) When the acceptance of such resignation by the Commissioner has been communicated to the committee, such member shall be deemed to have vacated his office as such.

Removal of member.

11. (*1*) The Local Government may remove any member of the committee,—

(*a*) if he ceases to be an inhabitant of the municipality ;

(*b*) if he refuses to act or becomes, in the opinion of the Local Government, incapable of acting ;

(*c*) if he is declared a bankrupt or an insolvent ;

(*d*) if he is convicted of any such offence or subjected by a Criminal Court to any such order as renders him, in the opinion of the Local Government, unfit to continue to be a member;

(*e*) if he is declared by the Local Government disqualified for employment in, or is dismissed from, the public service;

(*f*) if he attends none of the meetings of the committee held during the space of three consecutive months;

(*g*) if his continuance in office is, in the opinion of the Local Government, dangerous to the public peace or order; or

(*h*) when he is a salaried officer of Government, if his continuance in office is, in the opinion of the Local Government, unnecessary or undesirable.

(*2*) A person removed under this section on any ground other than those mentioned in clauses (*e*) and (*f*), shall be disqualified for election unless and until the Local Government shall otherwise direct.

Filling of casual vacancies.

12. (*1*) When the place of an elected member of the committee becomes vacant by the resignation or removal of the member, or by his death, a new member shall be elected, in manner prescribed under section 8, to fill the place so vacated.

(*2*) When the place of a member of the committee appointed by name becomes vacant as aforesaid, the Local Government may, if it shall think fit, appoint a new member to fill the place so vacated.

(*3*) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would in the ordinary course have vacated office, and shall then vacate office, but may, if otherwise qualified, be re-elected or re-appointed.

(*4*) The Local Government may, by notification, delegate to the Commissioner the power conferred on it by sub-section (*2*) of appointing new members to fill casual vacancies in any committee.

Incorporation of committee.

13. Every committee shall be a body corporate by the name of "The Municipal Committee of ," and shall have perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire and hold property, both moveable and immoveable, and to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name:

Provided that no committee shall transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Local Government.

Time for

14. Subject to the provisions of section 5, sub-section (*3*), the committee

committee coming into existence.

shall come into existence at such time as the Local Government may, by notification, appoint in this behalf.

Consequences of establishment of committee where committee under Act XVII of 1884, or Reg. V of 1887, exists.

15. When the committee comes into existence under this Act and the municipality comprises within its limits a local area which was constituted a municipality under the Burma Municipal Act, 1884,[1] or the Upper Burma Municipal Regulation, 1887,[2] the following consequences shall ensue, namely:— XVII of 1884. V of 1887.

(*a*) the said Act or Regulation, as the case may be, shall cease to apply to the local area;

(*b*) the committee (if any) constituted under the said Act or Regulation for the local area (hereafter in this section called the old committee) shall continue to act until a new committee has been constituted for the municipality under this Act, and shall thereupon cease to exist;

(*c*) all property vested in the old committee shall vest in such new committee as soon as the same shall have been constituted under this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting such property;

(*d*) every right and liability belonging to, or incurred by, the old committee may be enforced by and against such new committee in like manner as it might have been enforced by and against the old committee if this Act had not been passed;

(*e*) a Government officer employed by the old committee at the time when such new committee comes into existence shall be deemed to be similarly employed by the latter and shall not be dismissed from such employment without the sanction of the Local Government; and

(*f*) the new committee shall be substituted for the old committee in all legal proceedings by or against the old committee pending at the time when such new committee comes into existence.

Member of committee to be municipal commissioner.

16. Every member of the committee shall be deemed to be a municipal commissioner within the meaning of any enactment for the time being in force.

President and Vice-President.

Election or appointment

17. (*1*) The committee shall from time to time elect one of its members

[1] Rep. by the Burma Laws Act, 1898 (XIII of 1898). *See* Fifth Schedule, printed, *supra*, p. 290.

[2] Printed, *supra*, p. 316.

to be president, and may from time to time elect another of its members to be vice-president : of president and vice-president.

Provided that the Local Government may, by notification, exclude any municipality from the operation of this sub-section, and may declare that the president or vice-president, or both shall be appointed by the Local Government from among the members of the committee.

(*2*) A member elected or appointed under this section to be president or vice-president, may be elected or appointed by office if he was appointed a member of the committee in the same way.

(*3*) If a president or vice-president is elected or appointed by office, the person who for the time being holds the office referred to shall be president or vice-president of the committee, as the case may be, during the term fixed under section 18 for the retention of office by a president or vice-president.

(*4*) The Local Government may delegate to the Commissioner the power of appointing the president or vice-president of any committee.

18. (*1*) Except as provided in section 19, sub-section (*3*), every president, whether elected by the committee or appointed by the Local Government, and every vice-president appointed by the Local Government shall hold office for such term, not exceeding three years, as the Local Government may by rule fix, and every vice-president elected by the committee shall hold office for such term as the committee may by bye-law fix. Term of office of president and vice-president.

(*2*) Whenever the president or vice-president ceases to be a member of the committee or tenders in writing to the committee his resignation of his office, he shall vacate his office, and any president or vice-president may be removed from office by the Local Government in pursuance of a resolution to that effect passed by two-thirds of the members present at a special meeting.

(*3*) Every resignation of office tendered under this section shall be reported as soon as may be to the Commissioner.

19. (*1*) Upon the occurrence of any vacancy in the office of president or vice-president during the term fixed under section 18, a new president or vice-president shall be elected or appointed in manner provided by section 17. Vacancies in office of president or vice-president.

(*2*) Upon the expiration of the term of office fixed under section 18 for the president or vice-president, a new president shall, and a new vice-president may, be elected or appointed in manner provided by section 17.

(*3*) A person elected or appointed under sub-section (*1*) to fill a casual vacancy shall hold office until the person whose place he fills would in the ordinary course have vacated office, and shall then vacate office.

(*4*) An outgoing president or vice-president may, if otherwise qualified, be re-elected or re-appointed.

Conduct of business during interregnum.

20. Notwithstanding anything in sections 9, 12, 18 and 19, an outgoing president or vice-president may continue to exercise the powers conferred on a president or vice-president by this Act, or by any rule, bye-law, public notice, resolution or direction made thereunder, between the expiry of his term of office and the election or appointment of a new president or vice-president.

Notification of Elections, Appointments and Removals.

Notification of elections, appointments and removals.

21. (*1*) Every election of a president or vice-president of the committee shall be subject to confirmation by the Commissioner, and shall, when so confirmed, be notified by him in the gazette; but, unless and until disallowed by the Commissioner, every such election shall be valid and shall take effect from the date thereof.

(*2*) Every appointment of a president or vice-president of the committee shall be notified by the appointing authority in the gazette and shall take effect from the date of such notification.

(*3*) Every election of a member or members of the committee shall be notified by the Commissioner in the gazette.

(*4*) Every order removing a member from the committee shall be notified by the Local Government in the gazette and shall be communicated to the person removed and to the committee of which he was a member, and shall take effect from the date on which the committee received such communication.

Conduct of Business.

Time for holding meetings.

22. (*1*) The committee shall meet for the transaction of business at least once in every month at such time as may be fixed by bye-law made under section 30.

(*2*) The president, or, in his absence, the vice-president, may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the members of the committee, convene an ordinary or a special meeting at any other time:

Provided that, when the entire number of members does not exceed five the concurrence of two of them in any such requisition shall be necessary.

Ordinary and special meetings.

23. (*1*) Every meeting of the committee shall be either ordinary or special.

(*2*) Any business may be transacted at an ordinary meeting unless it is

required by this Act or the rules or bye-laws thereunder to be transacted at a special meeting.

Quorum.

24. (*1*) The quorum necessary for the transaction of business at a special meeting shall be one-half of the whole committee:

Provided that, when the committee consists of less than six members, the quorum shall be three.

(*2*) The quorum necessary for the transaction of business at an ordinary meeting shall be such number, not less than three, as may be fixed by bye-law made under section 30:

Provided that, if at any ordinary or special meeting a quorum is not present, the chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before and transacted at the adjourned meeting whether there is a quorum present thereat or not.

Chairman of meeting.

25. (*1*) At every meeting of the committee the president, if present, shall preside as chairman.

(*2*) If when any meeting is held the office of president is vacant, or the president is absent from the meeting and the vice-president is present, the vice-president shall preside as chairman.

(*3*) In any case not provided for in sub-sections (*1*) and (*2*) the members present shall elect one of their number to preside as chairman of the meeting.

Voting and exclusion of members from voting when pecuniarily interested.

26. (*1*) Every member of the committee shall be entitled to attend every meeting of the committee, to take part in the proceedings and to vote upon every matter before it not being a matter in which he is, or may be, pecuniarily interested.

(*2*) The president of the committee or the chairman of a meeting may, after such inquiry as he may think fit, require any member to absent himself from a meeting during the discussion of any matter in which he is believed to have a pecuniary interest, and any member refusing to comply with such requisition shall not be permitted to take part in the proceedings regarding such matter, nor shall his vote thereon be recorded.

(*3*) If the president of the committee or the chairman of a meeting is believed by any member present at the meeting to have a pecuniary interest in any matter under discussion, he may, on the motion of such member, if carried, be required to absent himself from the meeting during such discussion, and, if he refuses to comply with such requisition, he shall not be

permitted to take part in the proceedings regarding such matter, nor shall his vote thereon be recorded.

Vote of majority decisive.

27. (*1*) Except as otherwise provided by this Act or the rules or bye-laws thereunder, every question coming before a meeting of the committee shall be decided by a majority of the votes of the members present and entitled to vote thereon.

(*2*) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

Resolutions to be recorded and published.

28. Every resolution passed by the committee at a meeting shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be open to inspection by the public at the municipal office at all reasonable times without charge and shall be published in such manner as the Local Government may direct.

Language of discussions and proceedings.

29. The discussions and proceedings of the committee shall be conducted either in English or in Burmese and recorded either in English or in both English and Burmese as the committee at a special meeting may, from time to time, direct:

Provided that, if the discussions and proceedings are conducted and recorded in English, the committee shall provide for their interpretation into Burmese for the benefit of such members (if any) as do not understand English.

Power of committees to make bye-laws as to conduct of business.

30. (*1*) The committee may, from time to time at a special meeting make bye-laws consistent with this Act as to—

(*a*) the time and place of its meetings;

(*b*) the manner in which notice of its meetings is to be given;

(*c*) the quorum necessary for the transaction of business at ordinary meetings;

(*d*) the conduct of proceedings at meetings and the adjournment of meetings;

(*e*) the exercise by the president, by the vice-president, by sub-committees, by individual members or by officers or servants of the committee, of any powers conferred upon the committee by this or any other Act, or by the rules or bye-laws thereunder;

(*f*) the persons by whom receipts may be granted on behalf of the committee for money paid to it;

(*g*) the term for which a vice-president elected by the committee shall hold office;

(*h*) the appointment, duties, leave, suspension and removal of its officers and servants; and

(*i*) other similar matters.

(*2*) No bye-law made under this section shall take effect until it has been confirmed by the Local Government.

Extraordinary powers of president and vice-president in cases of emergency.

31. In cases of emergency the president, or in his absence the vice-president, of the committee may direct the execution of any work or the doing of any act which the committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be paid from the municipal fund :

Provided that—

(*a*) no order shall be made under this section in contravention of any order of the committee passed at a meeting; and

(*b*) every order made under this section, and all proceedings consequent thereon, shall be reported to the committee at its next meeting.

Joint Committees.

Joint committee of two or more committees or other local authorities.

32. The committee may, from time to time, concur with any other committee or cantonment, port or other local authority, or with more than one such committee or authority, in appointing, from their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the said committees or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which it is appointed.

Defects in Constitution and Irregularities.

Vacancies and irregularities not to invalidate proceedings.

33. Nothing done and no proceeding taken under this Act shall be questioned by reason only of any vacancy in the committee, or joint committee, or of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment of secretary.

34. (*1*) The committee shall, from time to time, at a special meeting, appoint one of its members, or, subject to the previous sanction of the Com-

missioner, any person to be its secretary, and may, at a like meeting and subject to the like sanction, remove any person so appointed.

(*2*) If the secretary is a member of the committee, he shall receive no remuneration in respect of his services. If he is not a member of the committee, the committee may, with the previous sanction of the Commissioner, assign to him such remuneration as it may think fit.

Employment of other officers and servants by committee.

35. Subject to the provisions of this Act and to such rules as may be made by the Local Government thereunder, the committee may appoint and remove such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such remuneration as it may think fit.

Power to prevent extravagance in establishments.

36. If, in the opinion of the Commissioner, the number of persons employed by the committee as officers or servants, or whom the committee proposes to employ as such, or the remuneration assigned by the committee to those persons, or any of them, is excessive, the committee shall, on the requisition of the Commissioner, reduce the number of those persons, or their remuneration, as the case may be :

Provided that the committee may appeal against any such requisition to the Local Government, and the decision of the Local Government on such appeal shall be final.

Pensions of Government officials serving committee.

37. In the case of an officer or servant, being a Government official, the committee may,—

(*1*) if his services are wholly lent to it, meet any charges prescribed or authorized by any general or special orders of the Governor General in Council for the time being in force regarding contributions towards pension or gratuity and leave allowances ; and,

(*2*) if he devotes only a part of his time to the performance of duties in behalf of the committee, meet any such charges as aforesaid in such proportion as may be determined by the Local Government.

Pensions of other officers and servants.

38. In the case of an officer or servant, not being a Government official, the committee may—

(*1*) grant him—

(*a*) leave allowances ;

(*b*) a gratuity, if his monthly pay is less than ten rupees ;

(*c*) with the sanction of the Local Government, if he is not entitled to pension, a gratuity in any other case ; and

(*2*) with the sanction of the Local Government,—

(*a*) subscribe, in accordance with any general or special orders of the Governor General in Council for the time being in force, for a pension or gratuity payable on his retirement, or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under any general or special orders of the Governor General in Council for the time being in force, the officer or servant would be entitled if the service had been service under Government.

Contracts and Transfers of Property.

Mode of executing contracts and making transfers of immoveable property of committee.

39. (*1*) When a contract made by or on behalf of the committee exceeds in value or amount one hundred rupees, it shall be in writing and signed by the president or vice-president and at least one other member of the committee.

(*2*) Every transfer of immoveable property belonging to the committee shall be made by an instrument in writing, executed by the president or vice-president and by at least two other members of the committee, and shall recite the number and date of the order of the Local Government approving the resolution for such transfer passed under section 13.

(*3*) If any such contract or transfer is executed or made otherwise than in conformity with the provisions of this section, it shall not be binding on the committee.

Penalty for member, officer or servant of committee being interested in contract made with committee

40. (*1*) If any member, officer or servant of the committee is, otherwise than with the permission in writing of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both, unless it shall appear that he was not aware of such interest.

(*2*) No person shall, by reason only of being a shareholder in, or a member of, any incorporated or registered company, be deemed to be interested in any contract entered into between such company and the committee, but every such person shall be treated as pecuniarily interested in such contract within the meaning of section 26.

Acquisition of Land.

Acquisition of land

41. Where any land, whether within or beyond the limits of the municipality, is required by the committee for the purposes of this Act, or for any

under Act I of 1894.

other object which it is empowered to carry out under any other enactment for the time being in force, the Local Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1894,[1] and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the committee. I of 1894.

Privileges and Liabilities.

Suits against committee and its officers.

42. No suit shall be instituted against the committee, or against a member or officer of the committee, in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been, in the case of the committee, delivered or left at its office, and, in the case of a member or officer, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff, and the plaint must contain a statement that such notice has been so delivered or left:

Provided that this section shall not apply to any suit instituted under section 54 of the Specific Relief Act, 1877.[2] I of 1877.

Liability for loss, waste or misapplication.

43. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the committee if the loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation may be instituted against him by the committee or by the Secretary of State for India in Council.

Members, officers, servants and agents of committee to be deemed public servants.

44. Every member, officer or servant of the committee, and every farmer or agent for the recovery on behalf of the committee of any tax, fee or other impost, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.[3] XLV of 1860.

Notice of resignation or discharge of sweepers.

45. (*1*) In the absence of a written contract to the contrary, every sweeper employed by the committee shall be entitled to one month's notice before discharge, or to one month's wages in lieu thereof, unless he is discharged for misconduct or at the end of a specified term for which he was engaged.

(*2*) Should any sweeper employed by a committee, in the absence of a written contract authorizing him so to do and without reasonable cause, resign

[1] Printed, General Acts, Vol. VI, p. 100.
[2] Printed, General Acts, Vol. III, p. 1.
[3] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

his employment, or absent himself from his duties without giving one month's notice to the committee, or neglect or refuse to perform his duties or any of them, he shall be liable to imprisonment for a term which may extend to two months.

(*3*) The Local Government may by notification direct that, on and from a date to be specified in such notification, the provisions of sub-sections (*1*) and (*2*) with respect to sweepers shall apply also to any specified class of municipal servants whose functions intimately concern the public health or safety.

CHAPTER IV.

TAXATION.

General Provisions.

Taxes which may be imposed for general purposes of Act.

46. (*1*) Subject to any general or special rules or orders which the Governor General in Council may issue, or may have issued in this behalf, the committee may, for the purposes of this Act, impose in the whole or any part of the municipality, with the sanction hereinafter specified in each case, any of the following taxes, namely:—

(*A*) with the previous sanction of the Local Government,—

(*a*) a tax on buildings and lands not exceeding ten per centum of the annual value of such buildings and lands;

(*b*) a tax on lands covered by buildings at a rate not exceeding three pies per square foot per annum; or, if the lands are covered by buildings of two or more storeys, at a rate not exceeding four pies per square foot per annum;

(*c*) a tax on lands not covered by buildings at a rate not exceeding ten rupees per acre per annum;

(*d*) a tax on buildings according to the length of street frontage occupied by such buildings at rates not exceeding the following, namely:—

	Per annum. Rs.	a.
For a building having not more than ten feet of street frontage	0	8
For a building having more than ten, but not more than twenty, feet of street frontage	1	8
For a building having more than twenty, but not more than thirty, feet of street frontage	2	8
For a building having more than thirty, but not more than forty, feet of street frontage	4	0

	Per annum. Rs.	a.
For a building having more than forty, but not more than fifty, feet of street frontage	7	0
For a building having more than fifty, but not more than sixty, feet of street frontage	10	0
And for each additional ten, or part of ten, feet of street frontage	4	8

(*e*) a tax on households or families at a rate not exceeding thirty per centum per annum on the amount of the *thathameda*-tax assessed upon each household or family ;

(*f*) a tax, not exceeding nine rupees per quarter, on every vehicle, boat, beast used for driving, riding, draught or burden, or dog, kept within the municipality or any part thereof ;

(*g*) a tax on private markets at a rate not exceeding five per centum of the net annual profits derived by the owners therefrom ;

(*h*) a toll, not exceeding eight annas, on every vehicle, or beast used as aforesaid, entering the municipality and not liable to taxation under clause (*f*) :

Provided that any person may compound for exemption from all tolls leviable in respect of any vehicle or animal under this clause by paying the tax which would have been leviable in respect thereof under clause (*f*) if the same had been kept within the municipality ;

(*B*) with the previous sanction of the Local Government and the Governor General in Council, any other tax.

(*2*) Only one of the taxes mentioned in clauses (*a*), (*b*), (*c*) and (*d*) of sub-section (*1*) shall be imposed in respect of the same buildings or lands, and no tax under clause (*e*) thereof shall be leviable from a person who is liable to pay a tax under clause (*a*), (*b*), (*c*) or (*d*).

(*3*) Only one of the taxes mentioned in clauses (*a*) and (*g*) shall be imposed in respect of the same premises.

(*4*) In this section "annual value" means the gross annual rent for which buildings and lands liable to taxation may reasonably be expected to let, and, in the case of houses, may be expected to let unfurnished.

(*5*) A tax may be imposed at different rates in different parts of the municipality.

Water-tax.

47. (*1*) Besides the taxes imposed under section 46, the committee may, with the previous sanction of the Local Government, for the purpose of constructing or maintaining works for the supply of water throughout the

municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of such works, impose a tax, to be called the water-tax, upon buildings or lands which are so situated that their occupiers can benefit by such works.

(*2*) The rate or amount of the tax so imposed on different buildings or lands may be determined with reference, among other considerations, to their distance from the nearest point at which the water is deliverable by the works and to their level:

Provided that, in fixing such rate or amount, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contracts or otherwise, should not exceed the amount required for the said purpose.

Lighting-tax.

48. Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the Local Government, for the purpose of lighting the streets throughout the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for lighting those streets, impose a tax, to be called the lighting-tax, upon buildings and lands situated within the municipality, or such part thereof, as the case may be:

Provided that, in fixing the rate or amount of the tax, regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

Latrine-tax.

49. Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the Local Government, for the purpose of providing and maintaining public latrines sufficient in number and situation for the ordinary wants of the municipality or any part thereof, or paying the principal or interest of any loan raised for the construction of works required for that purpose, impose a tax, to be called the latrine-tax, upon buildings and lands in the municipality, or such part thereof, as the case may be:

Provided that, in fixing the rate or amount of the tax, regard shall be had to the principle that the total net proceeds thereof should not exceed the amount required for the said purpose.

Scavenging-tax.

50. (*1*) Besides the taxes imposed under the foregoing sections, the committee may, with the previous sanction of the Local Government, for the purpose of providing for the removal and disposal of sewage or rubbish, or both, from any buildings or lands, or paying the principal or interest of any loan raised for the construction of works required for that purpose, impose

upon such buildings or lands a tax, to be called the scavenging-tax, at such rate or rates as may be necessary.

(*2*) The rate or amount of the tax so imposed may vary according as sewage or rubbish or both is or are removed :

Provided that, in fixing the rate or rates of such tax, regard shall be had to the principle that the net proceeds thereof should not exceed the net cost of the removal and disposal of the said sewage or rubbish, or both, including the cost of the maintenance and repair of all materials, appliances and works connected with such removal and disposal after deducting the produce of the sale of such materials, appliances and works, if sold.

Procedure for imposing such taxes.

51. (*1*) The imposition in any municipality of any tax under this Act shall first be proposed at a special meeting of the committee.

(*2*) If and when a resolution has been passed approving of the imposition of a tax proposed under sub-section (*1*), the committee shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(*3*) Any person likely to be directly affected by the proposed tax and objecting to the same may, within thirty days from the date of the publication of such notice, submit his objection in writing to the committee ; and the committee shall, at a special meeting, take his objection into consideration.

(*4*) If no objection is received within the said period of thirty days, or if the objections received, having been considered as aforesaid, are deemed insufficient, the committee may submit its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid and its decision thereon.

(*5*) The Local Government, on receiving such proposals, may sanction the same, or refuse to sanction them, or sanction so much thereof as it may think fit, or return the same to the committee for further consideration.

(*6*) When the Local Government desires to sanction any such proposal which requires the further sanction of the Governor General in Council, it shall submit such proposal to the Governor General in Council with the objections (if any) received through the committee and the views of the committee and the Local Government thereon, and the Governor General in Council may sanction the proposal, or refuse to sanction the same, or sanction so much thereof as he may think fit, or return the same to the Local Government for further consideration.

(*7*) When any proposal of the committee in respect of a tax has been sanctioned in whole or in part by the Local Government or by the Governor

General in Council and the Local Government, as the case may be, the Local Government may notify the imposition of the tax as sanctioned from a specified date, which date shall be the first day of January, April, July or October in any year and shall be distant not less than three months from the date of such notification, and thereupon the tax shall come into force from the date so specified, and, if it is a tax leviable by the year and comes into force on any day other than the first day of January, it shall be leviable in quarterly instalments until the first day of January then next ensuing.

(*8*) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

Power to abolish, reduce or suspend tax.

52. (*1*) The committee may, by resolution passed at a special meeting, propose to abolish or reduce in amount any tax imposed under this Act, or to suspend the levy of any tax for any specified period, and the Local Government may sanction, or refuse to sanction, such proposal in whole or in part only. If the Local Government sanctions such proposal in whole or in part, it shall notify in the gazette the abolition or reduction of the tax or the suspension of the levy thereof, as the case may be.

(*2*) A tax may be abolished or reduced in amount or the levy thereof suspended in the whole or any part of the municipality.

Power to exempt from taxation.

53. (*1*) The committee may, by resolution passed at a special meeting, sanctioned by the Local Government and published in the gazette, and the Local Government may, by notification,[1] exempt in whole or in part from the payment of any tax any person or class of persons, or any property or description of property, animals or vehicles.

(*2*) The committee may by resolution, supported by two-thirds of the whole number of members, exempt in whole or in part, for any period not exceeding one year, from the payment of any tax imposed under this Act, any person who by reason of poverty may, in its opinion, be unable to pay the same.

Power to Local Government to suspend levy of tax.

54. (*1*) If at any time it appears to the Local Government, on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence, or that the levy thereof, or of any part thereof, is injurious to the interests of the public, it may require the committee to take, within a specified period, measures to remove the objection; and, if within that period such requisition is not complied with to the

[1] For instances of such notifications, *see* Burma Gazette, 1898, Pt. I, p. 533; *ibid*, 1899, Pt. I, pp. 73 and 292.

satisfaction of the Local Government, the Local Government may, by notification, suspend the levy of the tax or of any part thereof, until the objection has been removed.

(*2*) The Local Government may at any time, by a like notification, rescind, in whole or in part, any order made under sub-section (*1*).

Power to make rules for assessment, collection and remission of taxes.

55. (*1*) The Local Government may make rules[1] consistent with this Act for the assessment, collection and remission or refund of taxes leviable under this Act and for preventing evasion of the same.

(*2*) In making any rule under this section, the Local Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

Taxes not invalid for defect of form.

56. No tax imposed under this Act shall be invalid merely for defect of form; and it shall be enough in connection with any such tax on property, or any assessment of value for the purpose of the tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier (if any) thereof.

Taxes leviable under Act XVII of 1884 or Regulation V of 1887 to be deemed taxes under this Act.

57. (*1*) All taxes leviable in any local area under the Burma Municipal Act, 1884,[2] or the Upper Burma Municipal Regulation, 1887,[3] at the time when the committee having authority over such local area comes into existence under this Act, shall, so far as their imposition and assessment are consistent with this Act and within the powers conferred thereby, be deemed to have been imposed and assessed under this Act. XVII of 1884. V of 1887.

(*2*) In the case of any local area which is a municipality established under the Burma Municipal Act, 1884,[2] and in which a tax under section 41, sub-section (*1*), division (A), clause (*c*), of that Act has been imposed, such tax shall continue to be levied for the unexpired portion of the year for which it was assessed, and thenceforward, until the same shall have been duly altered or abolished under the provisions of this Act, such tax shall be deemed to have been imposed under section 46, sub-section (*1*), division (A), clause (*d*), of this Act, and shall be levied accordingly. XVII of 1884.

Taxes when payable.

58. Any tax imposed under this Act and payable periodically shall be payable on such dates during the period in respect of which it is leviable, and in such instalments (if any) as the committee may, subject to the provisions of section 51, sub-section (*7*), and to any rules made by the Local Government in this behalf, from time to time direct.

[1] For rules made under this section, *see* Burma Gazette, 1898, Pt. I, p. 591.

[2] Rep. by the Burma Laws Act, 1898 (XIII of 1898). *See* Fifth Schedule, printed, *supra*, p. 290.

[3] Printed, *supra*, p. 316.

(*Chap. IV.—Taxation.—General Provisions. Sec. 59. Taxes on Immoveable Property. Secs. 60-62.*)

Receipts to be given.

59. For every sum paid on account of any tax under this Act a receipt stating the amount and the tax on account of which it has been paid, shall be tendered by the person receiving the same on behalf of the committee to the person making the payment.

Taxes on Immoveable Property.

Preparation of assessment-list.

60. (*1*) The committee shall cause an assessment-list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) the name of the street or division in which the property is situate;

(*b*) the designation of the property, either by name or by number, sufficient for identification;

(*c*) the names of the owner and occupier if known;

(*d*) the annual value, area, street frontage or profit on which the tax is assessed; and

(*e*) the amount of the tax assessed thereon by the committee.

(*2*) for the purpose of preparing such list the committee may require the owners or occupiers of buildings or lands to furnish it with returns of the measurements or of the rent or annual value or profit of such buildings or lands.

(*3*) Whoever omits to comply with such requisition, or furnishes a return which is untrue, shall be punishable with fine which may extend to fifty rupees, and shall be precluded from objecting to any assessment made by the committee in respect of any building or land of which he is the owner or occupier.

Publication of notice of assessments.

61. When the assessment-list has been completed, it shall be signed by the president or vice-president, and the committee shall give public notice of the fact and of the place where the list or a copy thereof may be inspected; and every person claiming to be either an owner or an occupier of any property included in such list, or the agent of any such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge.

Public notice of time fixed for revising assessment-list.

62. (*1*) The committee shall at the time of publishing the assessment-list under the last foregoing section give public notice of a time, not less than one month from the publication of such notice, when it will proceed to revise the assessment; and in all cases in which any property is for the first time assessed, or the assessment of any property is increased, it shall also give notice of such assessment, or increased assessment, as the case may be, to the owner or occupier of the proerty, whichever of them will be liable as between themselves to pay the tax.

(*2*) Every objection to any such assessment or increased assessment shall be made in writing and shall be submitted at least eight days before the time fixed in the notice referred to in sub-section (*1*):

Provided that the committee may in its discretion receive oral objections at the time specified in the notice.

Settlement of list.

63. (*1*) A sub-committee of not less than two members appointed for this purpose by the committee shall inquire into any objection submitted under the last foregoing section, and in the course of such inquiry shall allow the objector an opportunity of being heard, either in person or by authorized agent, as the objector may think fit, and shall have authority to receive evidence on any matter arising therein, and shall record the proceedings and a summary of the evidence taken therein, and shall give a separate decision on each objection submitted as aforesaid, either at the hearing thereof or on a subsequent day of which notice shall be given to the objector.

(*2*) An appeal from every decision of a sub-committee under sub-section (*1*) shall lie by petition in writing to the Deputy Commissioner, or, if the Deputy Commissioner is a member of the committee, to the Commissioner:

Provided—

(*a*) that the petition of appeal shall have been presented to the Deputy Commissioner or Commissioner within fourteen days from the date of the sub-committee's decision;

(*b*) that a notice in writing of the intention to appeal shall have been given to the president of the committee within seven days from the date of the sub-committee's decision; and

(*c*) that the petition is stamped under article 11 of Schedule II of the Court-fees Act, 1870.[1] VII of 1870.

(*3*) The appellant shall not be permitted, without the consent of the Deputy Commissioner or Commissioner, as the case may be, at the hearing of the appeal, to put forward any ground of appeal not set forth in his petition of appeal.

(*4*) It shall not be necessary for the respondent committee to appear before the Deputy Commissioner or Commissioner, and any letter which may be addressed by, or by order of, such committee to such Deputy Commissioner or Commissioner regarding the appeal shall, if a copy thereof has before the hearing of the appeal been supplied to the appellant, be received and considered before the decision on the appeal is delivered.

(*5*) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of, assessment arises on which he

[1] Printed, General Acts, Vol. II, Ed. 1898, p. 124.

entertains doubt, the Deputy Commissioner or Commissioner hearing the appeal may, of his own motion, and shall, on the application of the appellant, or of the president of the respondent committee, made at the hearing, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point and the record of the case, for the decision of the Judicial Commissioner.

(*6*) When a case has been stated under the provisions of the last foregoing sub-section, the Judicial Commissioner shall, after considering the question so referred, send a ruling thereon to the officer by whom the reference was made, and such officer shall, on receipt of the ruling, dispose of the case in conformity therewith. It shall not be necessary for any party to the case to be present, either personally or by authorized agent, at the consideration of the case by the Judicial Commissioner.

(*7*) Subject to the foregoing provisions of this section, the decision of the sub-committee, Deputy Commissioner or Commissioner, as the case may be, shall be final.

(*8*) The Deputy Commissioner or Commissioner, as the case may be, shall in his decision direct by whom the costs of the appellant and those of the respondent committee are to be paid, and, if he directs that one party shall pay the other party's costs or any part thereof, he shall fix the amount of the costs to be so paid.

(*9*) Costs awarded under this section to the committee shall be recoverable by the committee as if they were arrears of a tax due from the appellant.

(*10*) The pendency of any appeal from a decision of the sub-committee shall not operate to delay or prevent the levy of any tax, or, when the tax is payable by instalments, of any instalment of any tax payable in respect of any property according to the assessment of the committee ; but if, by the final decision upon an objection, it is determined that such tax or instalment ought not to have been levied in whole or in part, the committee shall refund to the person from whom the same has been levied the amount of such tax or instalment, or the excess thereof over the amount properly leviable in accordance with such final decision, as the case may be.

(*11*) If, in accordance with the provisions of this section, a refund of any payment made by an appellant be required, the committee shall make such refund within ten days after receipt of a certified copy of the final decision of the Deputy Commissioner or Commissioner, as the case may be.

(*12*) If the committee fails to pay any costs awarded to an appellant under sub-section (*8*) or any refund due to an appellant under sub-sections (*10*) and (*11*) within ten days from receipt of a certified copy of the final decision of the

Deputy Commissioner or Commissioner, as the case may be, the Deputy Commissioner or Commissioner shall, on the application of the appellant, order the person having the custody of the balance of the municipal fund to pay the amount, together with the costs of the application and of the service of the order, and such person shall be legally bound to comply with such order and shall debit the amount so paid against the balance of the municipal fund.

(*13*) The assessment-list shall be amended under the direction and signature of the president or vice-president so as to make it correspond with the decisions upon objections submitted, or, in the case of appeals from such decisions, with the decisions on such appeals; and, subject to such amendments as may thereafter be duly made, the assessments in the list shall be the assessments on which the tax shall be calculated and levied for the year of assessment next ensuing, and, in the case of a tax imposed for the first time, for the period between the date of the coming into force of the tax and the commencement of the next year of assessment.

(*14*) The assessment-list, when amended under this section, shall be deposited in the committee's office, and shall there be open to inspection during office hours by all owners or occupiers of property comprised therein, and a public notice that it is so open to inspection shall forthwith be published.

(*15*) This section shall not apply to the Rangoon Municipality.

Settlement of list in Rangoon.

64. (*1*) In the Rangoon Municipality the president shall inquire into any objection submitted under section 62, and in the course of such inquiry shall allow the objector an opportunity of being heard, either in person or by authorized agent, as the objector may think fit, and shall have authority to receive evidence on any matter arising therein, and shall record the proceedings and a summary of the evidence taken therein, and shall give a separate decision on each objection submitted as aforesaid either at the hearing thereof or on a subsequent day, of which notice shall be given to the objector.

(*2*) An appeal from every decision of the president under sub-section (*1*) shall lie by petition in writing to the Judge of the Court of Small Causes:

Provided—

(*a*) that the petition of appeal shall have been presented to the Judge within fourteen days from the date of the president's decision;

(*b*) that a notice in writing of the intention to appeal shall have been given to the president of the committee within seven days from the date of the president's decision;

(*c*) that the petition is stamped under article 11 of Schedule II of the Court-fees Act, 1870.[1] VII of 1870.

[1] Printed, General Acts, Vol. II, p. 124.

(*3*) The appellant shall not be permitted, without the consent of the Judge at the hearing of the appeal, to put forward any ground of appeal not set forth in his petition of appeal.

(*4*) It shall not be necessary for the Rangoon Municipal Committee to appear before the Judge, and any letter which may be addressed by, or by order of, such committee to the Judge regarding the appeal shall, if a copy thereof has before the hearing of the appeal been supplied to the appellant, be received and considered before the decision on the appeal is delivered.

(*5*) If, on the hearing of an appeal under this section, any question as to the liability to, or the principle of, assessment arises on which he entertains doubt, the Judge hearing the appeal may of his own motion, and shall, on the application of the appellant, or the president of the respondent committee, made at the hearing, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point and the record of the case, for the decision of the Recorder.

(*6*) When a case has been stated under the provisions of the last foregoing sub-section, the Recorder shall, after considering the question so referred, send a ruling thereon to the Judge, and the Judge shall, on receipt of the ruling, dispose of the case in conformity therewith. It shall not be necessary for any party to the case to be present either personally or by authorized agent at the consideration of the case by the Recorder.

(*7*) Subject to the foregoing provisions of this section, the decision of the president, or Judge, as the case may be, shall be final.

(*8*) The Judge shall, in his decision, direct by whom the costs of the appellant and those of the respondent committee are to be paid, and, if he directs that one party shall pay the other party's costs or any part thereof, he shall fix the amount of the costs to be so paid.

(*9*) Costs awarded under this section to the committee shall be recoverable by the committee as if they were arrears of a tax due from the appellant.

(*10*) The pendency of any appeal from a decision of the president shall not operate to delay or prevent the levy of any tax, or, when the tax is payable by instalments, of any instalment of any tax payable in respect of any property according to the assessment of the committee; but if, by the final decision upon an objection, it is determined that such tax or instalment ought not to have been levied in whole or in part, the committee shall refund to the person from whom the same has been levied the amount of such tax or instalment, or the excess thereof over the amount properly leviable in accordance with such final decision, as the case may be.

(*11*) If, in accordance with the provisions of this section, a refund of any payment made by an appellant be required, the committee shall make such refund within ten days after receipt of a certified copy of the final decision of the Judge.

(*12*) If the committee fails to pay any costs awarded to an appellant under sub-section (*8*), or any refund due to an appellant under sub-sections (*10*) and (*11*), within ten days from receipt of a certified copy of the final decision of the Judge, the Judge shall, on the application of the appellant, order the person having the custody of the balance of the municipal fund to pay the amount, together with the costs of the application and of the service of the order ; and such person shall be legally bound to comply with such order, and shall debit the amount so paid against the balance of the municipal fund.

(*13*) The assessment-list shall be amended under the direction and signature of the president or vice-president so as to make it correspond with the decision upon objections submitted, or, in the case of appeals from such decisions, with the decisions on such appeals ; and, subject to such amendments as may thereafter be duly made, the assessments in the list shall be the assessments on which the tax shall be calculated and levied for the year of assessment next ensuing, and, in the case of a tax imposed for the first time, for the period between the date of the coming into force of the tax and the commencement of the next year of assessment.

(*14*) The assessment-list, when amended under this section, shall be deposited in the committee's office, and shall there be open to inspection during office hours by all owners or occupiers of property comprised therein, and a public notice that it is so open to inspection shall forthwith be published

(*15*) This section shall apply only to the Rangoon Municipality.

Further amendments of assessment-list.

65. (*1*) The committee may at any time amend the list by inserting the name of any person whose name ought to have been inserted, or by including any property which ought to have been included, or by altering the assessment on any property which has been erroneously valued, or assessed through fraud, accident or mistake, after giving notice, to the person interested in the amendment, of a time, not less than one month from the date of service of such notice, at which the amendment is to be made.

(*2*) Any person interested in any such amendment may tender his objection to the committee in writing before the time fixed in the notice, or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same, either in person or by authorized agent, as he may think fit.

(3) The provisions of section 63 or section 64 shall apply to objections and appeals in such cases.

Addition of new buildings to assessment-list.

66. When a new building is erected after the completion of the assessment-list, the committee may cause it to be added to the list, and in such a case the provisions of sections 60 to 62 and section 63 or section 64 shall apply, except that no public notice shall be required. In such a case the assessment shall take effect from the beginning of the month following the date on which the assessment is settled by the committee.

New list need not be prepared every year.

67. It shall be in the discretion of the committee to prepare a new assessment-list every year, or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving the same notice as if a new valuation and assessment-list had been prepared.

Joint and several liability of owners and occupiers for taxes.

68. Every tax payable under section 46, sub-section (*1*), division (A), clause (*a*), clause (*b*), clause (*c*) or clause (*d*), or section 47, section 48, section 49 or section 50, in respect of any building or land, shall be payable jointly and severally by all persons who have been either owners or occupiers of the building or land at any time during the year of assessment, or, when the tax is payable by instalments, at any time during the period in respect of which the instalment is payable.

Liability of owners and occupiers as between themselves for taxes.

69. (*1*) In the absence of any agreement to the contrary between an owner and an occupier of any building or land, any tax payable under section 46, sub-section (*1*), division (A), clause (*a*), clause (*b*), clause (*c*) or clause (*d*), which is paid by or recovered from the occupier, shall be recoverable by him from the owner, and any tax payable under section 47, section 48, section 49 or section 50, which is paid by or recovered from the owner, shall be recoverable by him from the occupier.

(2) A sum recoverable under sub-section (*1*) by an occupier from an owner may be deducted by the occupier from any rent due or afterwards accruing due from him to the owner.

Remission and Refund.

Remission and refund of taxes.

70. (*1*) When any building in respect of which a tax is leviable under section 46, sub-section (*1*), division (A), clause (*a*) or clause (*b*) or clause (*d*), or under section 47, or section 48, or section 49 or section 50, remains unoccupied throughout the period on account of which an instalment of such tax is payable, the amount payable in respect of such building on account of such period shall, on application in writing to the committee, be remitted, and, if such amount has been paid, it shall be refunded:

Provided that it shall be in the discretion of the committee to direct that no such remission or refund shall be granted under this sub-section unless notice in writing of the vacancy has been given to it within such time after the beginning of the year or of the period as it may, from time to time, fix in this behalf.

(2) When any such building as aforesaid—

(*a*) has not been occupied or productive of rent for any period of not less than sixty consecutive days, or

(*b*) is wholly or in greater part demolished or destroyed by fire or otherwise,

the committee may remit or refund such portion (if any) of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon such person.

CHAPTER V.

FUNDS AND PROPERTY.

Municipal fund constituted.

71. There shall be formed for each municipality a municipal fund, and there shall, save as by this Act otherwise provided, be credited thereto—

(*a*) all sums received by or on behalf of the committee under this Act or otherwise:

(*b*) all fines realized from persons convicted under this Act or the rules or bye-laws thereunder, or under section 34 of the Police Act, 1861,[1] for offences committed within the municipality; V of 1861.

(*c*) the whole, or any such part as the Local Government may approve, of any contributions from the port fund of any port abutting on, or situated within, the municipality, made under the authority of the Indian Ports Act, 1889, section 36, sub-section (5)[2]; X of 1889.

(*d*) when there has been included within the municipality a municipality constituted under the Burma Municipal Act, 1884,[3] or the Upper Burma Municipal Regulation, 1887,[4] the balance (if any) standing at the credit of such municipality at the time when the committee comes into existence. XVII of 1884. V of 1887.

[1] Printed, General Acts, Vol. I, p. 37.
[2] Printed, General Acts, Vol. V, p. 27.
[3] Rep. by the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 290.
[4] Printed, *supra*, p. 316.

Application of fund.

72. (*1*) The committee shall set apart and apply annually out of the municipal fund,—

(*a*) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;

(*b*) secondly, such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 37 and 38; and

(*c*) thirdly, such sums as may be required to pay the expenses of pauper lunatics and pauper lepers sent to public asylums from the municipality, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for Education, Sanitation, Vaccination, Medical Relief and Public Works, as may be deemed by the Local Government to be equitably debitable to the committee in return for services rendered to it by such departments or any of them.

(*2*) Subject to the charges specified in sub-section (*1*) and to such rules as the Local Government may make with respect to the priority to be given to the several obligations of the committee, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the undermentioned matters within the municipality, and with the sanction of the Commissioner outside the municipality, when such application of the fund is for the benefit of the inhabitants, namely:—

(*a*) the construction, maintenance, improvement, cleansing and repair of streets and of public bridges, embankments, drains, latrines, tanks and water-courses;

(*b*) the watering and lighting of the streets or any of them;

(*c*) the prevention and extinction of fires;

(*d*) the construction, establishment and maintenance of schools, hospitals, dispensaries, leper asylums and other institutions for the promotion of education, or for the benefit of the public health, and of rest-houses, *zayats*, wharves, poor-houses, markets, encamping-grounds, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;

(*e*) grants-in-aid to schools, hospitals, dispensaries, poor-houses, leper asylums and other educational or charitable institutions;

(*f*) the training of teachers and the establishment of scholarships;

(*g*) the giving of relief and the establishment and maintenance of relief works in time of scarcity or famine;

(*h*) the supply, storage and preservation from pollution of water for the use of men or animals ;

(*i*) the planting and preservation of trees ;

(*j*) the taking of a census, the registration of births, marriages and deaths, public vaccination and any other sanitary measures ;

(*k*) the keeping and auditing of the accounts of the municipal fund, the school fund and the hospital fund ;

(*l*) the holding of fairs and industrial exhibitions ; and

(*m*) all other acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants, or expenditure whereon may be declared by the committee, with the sanction of the Local Government, to be an appropriate charge on the municipal fund.

School fund.

73. (*1*) There may be formed for each municipality a school fund, to which shall be credited—

(*a*) the fees levied in schools maintained at the cost of the school fund ;

(*b*) any assignment that may be made to the school fund from Imperial or Provincial funds or from any district or local fund ;

(*c*) any other funds or income that may be entrusted to the committee for the promotion of education ; and

(*d*) any sums assigned for educational purposes from the municipal fund.

(*2*) The Local Government may fix for the municipality the minimum proportion of the municipal fund that shall be yearly assigned to the school fund under clause (*d*) :

Provided that the minimum so fixed shall not exceed five per centum on the gross annual income of the municipality.

(*3*) No expenditure, except expenditure for the promotion of education, shall be charged against the school fund. In case of doubt, the Commissioner shall decide whether any expenditure is or is not for the promotion of education, and his decision shall be final.

Hospital fund.

74. (*1*) There may be formed for each municipality a hospital fund, to which shall be credited—

(*a*) any fees received from paying patients in any hospital maintained by the fund ;

(*b*) any money realized by the sale of medicines or other stores or articles purchased by the fund ;

(*c*) any assignment that may be made to the hospital fund from Imperial or Provincial funds or from any district or local fund ;

(*d*) any other funds or income that may be entrusted to the committee for the construction or maintenance of hospitals, dispensaries or leper asylums, or the provision of medical aid or relief ; and

(*e*) any sums assigned for medical purposes from the municipal fund.

(*2*) No expenditure, except expenditure for the construction or maintenance of dispensaries, hospitals or leper asylums, or the provision of medical aid or relief or vaccination, shall be charged against the hospital fund. In case of doubt the Commissioner shall decide whether any expenditure is or is not for any of the purposes abovementioned, and his decision shall be final.

Custody of and disbursements from funds.

75. (*1*) The balances standing to the credit of the municipal fund and school and hospital funds shall, if there is situate within the municipality a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, be kept in such treasury, sub-treasury or bank. In any other case, the bulk of the funds shall be kept in the nearest Government treasury or sub-treasury or bank as aforesaid, and such money as may be required for current expenditure shall be kept by the committee in a strong box in such place and under such precautions as the committee may, from time to time, direct.

(*2*) Save as provided in section 77, no disbursement from the municipal fund, the school fund or the hospital fund shall be made except under the signature of the president or vice-president and one other member of the committee.

Investment of same.

76. (*1*) The committee may from time to time, with the previous sanction of the Local Government, invest any portion of the municipal fund or school fund or hospital fund in securities of the Government of India or such other securities as the Governor General in Council may approve in this behalf, and may, with the like sanction, realize any such funds so invested or vary such investments for others of a like nature.

(*2*) The income resulting from such securities and the proceeds of the sale of the same shall be credited to the municipal fund, school fund or hospital fund, as the case may be.

Delegation of management of school and hospital funds to sub-committees.

77. (*1*) The committee may delegate to a school sub-committee the management of the school fund, and to a hospital sub-committee the management of the hospital fund.

(*2*) The school and hospital sub-committees (if any) formed under sub-section (*1*) shall each consist of such members of the committee as may be appointed by the committee for this purpose, and of such other persons (if any) as may be nominated for this purpose by the committee, the Local Government or the Commissioner under rules made by the Local Government in this behalf.

(*3*) Every hospital sub-committee and every school sub-committee shall elect a chairman.

(*4*) When the management of the school fund or hospital fund has been delegated in manner provided by sub-section (*1*), disbursements therefrom may be made under the signature of the chairman of the school sub-committee or hospital sub-committee, and one other member of such school sub-committee or hospital sub-committee, as the case may be.

Property vested in committee.

78. Subject to any special reservation made by the Local Government in this behalf, all property in a municipality of the nature hereinafter specified shall be vested in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control and shall be held and applied by it for the purposes of this Act, that is to say,—

(*a*) all public town halls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of municipal funds;

(*b*) all public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto;

(*d*) all dust, dirt, dung, ashes, refuse, animal-matter or filth, or rubbish of any kind, collected by the committee from the streets, drains, houses, privies, sewers, cesspools or elsewhere, or deposited in places fixed by the committee under section 97;

(*e*) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;

(*f*) all land or other property transferred to the committee by Her Majesty or by gift or otherwise, for local public purposes; and

(*g*) all streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

Management of public institutions.

79. (*1*) The management, control and administration of every public institution maintained out of the municipal fund shall vest in the committee:

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the Local Government:

Provided also that the committee may delegate its authority over schools or hospitals maintained or aided by it to a school or hospital sub-committee, if any, formed under section 77.

(*2*) When the management, control and administration of any public institution are vested in the committee, all property, endowments and funds belonging to such institution shall be held by the committee in trust for the purposes to which such property, endowments and funds are lawfully applicable.

Transfer to Crown of property vesting in committee.

80. The committee may, with the sanction of the Local Government, transfer to Her Majesty any property vesting in and belonging to the committee under section 78, or any property, endowments and funds held by the committee in trust under section 79, sub-section (*2*), but not so as to affect any trusts or public rights subject to which such property, endowments and funds are held.

Resumption by Government of land vested in committee.

81. If any land which is vested in the committee, and which has been transferred from Her Majesty to the committee, is required by the Government for a public purpose, it may be resumed by the Government without compensation to the committee, except for the cost or the present value, whichever may be less, of any permanent buildings erected, or other works executed, thereon by the committee, and for the amount (if any) paid to Her Majesty therefor.

Settlement of questions as to boundaries of, or compensation for, land resumed.

82. If any question arises between the Government and the committee as to the boundaries of any land vested in the committee by section 15, clause (*c*), or section 78, or as to the compensation to be paid under section 81 to the committee in respect of anything on any land to be resumed, the decision of the Local Government shall be final.

CHAPTER VI.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

Acquisition of land for building-sites adjoining new streets.

83. When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Closure of streets.

84. The committee may close temporarily any street vested in it, or any part thereof, for the purpose of repairs, or for the purpose of constructing or repairing any drain, culvert or bridge, or for any other public purpose; and may divert, discontinue or permanently close any such street, and sell the land or such part thereof as is not required for the purposes of this Act.

Prohibition of use of streets by a class of animals or vehicles.

85. The committee may by public notice prohibit the driving, riding or leading of animals or vehicles of any particular kind along any street or part of a street vested in it.

Temporary occupation of streets, etc.

86. The committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, or, subject to the provisions of the Dramatic Performances Act, 1876[1], the Lower Burma Towns Act, 1892,[2] and of any other law for the time being in force, for holding a *pwè* or other entertainment thereon, and may make such conditions as it may think fit, either by bye-law or in any particular case by resolution, for the safety or convenience of persons passing by, or dwelling or working in, the neighbourhood, and may charge fees for such permission, and may, at its discretion, withdraw such permission. XIX of 1876. IX of 1892.

Brackets for lamps.

87. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any inconvenience or injury thereto.

Names of streets and numbers of buildings.

88. The committee may at a meeting cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

Use of inflammable materials in building.

89. The committee may, by bye-law, fix limits within which the roofs and external walls of huts or other buildings shall not be made or renewed of bamboos, grass, mats, leaves, or other highly inflammable material unless with its permission in writing; and may, by notice in writing, require any

[1] General Acts, Vol. II, p. 547.
[2] Printed, *supra*, p. 232.

person who has disobeyed any such bye-law to remove or alter the roofs or external walls so made or renewed as it may think fit.

Fixing term for wearing out of inflammable roofs and walls.

90. (*1*) The committee may, by bye-law, prescribe that, within certain limits and after a day to be fixed by the bye-law, no building shall have a roof or external walls of bamboos, grass, mat, leaves, or other highly inflammable material without its permission in writing.

(*2*) The committee may, after the date so fixed, by notice in writing, require the owner of any building situated within the limits specified in such bye-law to remove any roof or external wall made of any such material.

(*3*) The date to be specified in a bye-law made under sub-section (*1*) of this section shall be such as, in the opinion of the committee, to allow the roofs and external walls of any such material in existence at the time of the making of such bye-law to remain until they would in ordinary course, if not repaired, require to be removed.

Line of buildings.

91. (*1*) If any building or part of a building projects beyond the regular line of a street, either existing or in process of formation, or beyond the front of the buildings on either side thereof, the committee may, whenever such first-named building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice in writing require such building or part, when being rebuilt, to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage which he may sustain in consequence of his building or any part thereof being set back.

(*2*) The committee may, on such terms as it may think fit, allow any building to be set forward for the improvement of the line of a street.

Notice of new buildings.

92. (*1*) Every person intending to erect or re-erect any building shall, if so required by a bye-law made by the committee in this behalf,—

(*a*) give notice in writing of his intention to the committee, and

(*b*) submit with such notice—

(i) a site-plan of the land;

(ii) where the land belongs to Her Majesty or the committee, a certified copy of the document or documents authorizing him to occupy the land, and, on the requisition of the committee, the original document or documents also, if the committee desires to inspect it or them: and

(iii) a plan showing the levels at which it is proposed to lay the foundation and the lowest floor or plinth, and specifications of the work to be constructed and the materials to be used.

(*2*) The committee may at any time within six weeks thereafter, by notice in writing, either prohibit the erection or re-erection of such building if deemed likely to be injurious to the inhabitants of the neighbourhood, or give any directions consistent with this Act in respect of all or any of the following matters, namely,—

(*a*) any trespass or encroachment on land belonging to the committee or to Her Majesty, provided that, if the land belongs to Her Majesty, the previous sanction of such officer as the Local Government may appoint in this behalf is obtained;

(*b*) the free passage or way in front of the building;

(*c*) the space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;

(*d*) the ventilation and drainage;

(*e*) the level and width of foundation, the level of the lowest floor or of the plinth, and the stability of the structure;

(*f*) the line of frontage with neighbouring buildings, if the building abuts on a street; and

(*g*) the number and situation of the water-closets, latrines, urinals, privies, sewers, ventilating-pipes, cesspools, traps, sinks, sullage-trays and wells.

(*3*) If any building is begun or erected or re-erected in contravention of any such bye-law, prohibition, or direction as aforesaid, the committee may, by notice in writing, require the building to be altered or demolished, as it may deem necessary.

(*4*) If any person, after delivering plans and specifications regarding any building under sub-section (*1*), departs, except under the orders or with the permission of the committee, from such plans and specifications, the committee may, by notice in writing, require such building to be altered or demolished, as it may deem necessary.

(*5*) A notice issued under sub-section (*1*) shall hold good only for such time as the committee may by bye-law direct for each class of buildings.

(*6*) The expression "erect or re-erect any building" includes—

(*a*) any material alteration or enlargement of any building;

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place;

(*d*) the conversion of two or more places of human habitation into a greater number of such places;

(*e*) such alteration of the internal arrangements of a building as effects an alteration in its drainage or sanitary arrangements, or affects its security;

(*f*) the addition of any rooms, buildings, out-houses or other structures to a building; and

(*g*) the re-construction of the whole or any part of the external walls of a building or the renewal of the posts of a wooden building.

Bye-laws as to mode of construction of buildings.

93. (*1*) The committee may by bye-law regulate, in respect of the erection or re-erection of any building within the municipality,—

(*a*) the materials to be used and method of construction to be adopted as regards external and party-walls, roofs, floors, fire-places and chimneys;

(*b*) the position of fire-places, chimneys, sewers, privies and cesspools;

(*c*) the space to be left about the building to secure the free circulation of air and facilitate scavenging and for the prevention of fire;

(*d*) the ventilation and drainage;

(*e*) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(*f*) the number and height above the ground, or above the next lower storey, of the stories of which the building may consist;

(*g*) the level and width of the foundation, the level of the lowest floor or plinth, and the stability of the structure; and

(*h*) the means to be provided for egress from the building in case of fire:

Provided that the committee may by resolution dispense with the observance of any or all of the bye-laws (if any) made under this section in regard to the erection or re-erection of any building or class of buildings specified in the resolution.

(*2*) If in and during the erection or re-erection of any building any bye-law made under this section is contravened, the committee may, by notice in writing to be delivered within a reasonable time, require the building to be within the space of thirty days demolished or so altered as it may deem necessary:

Provided that no such notice shall issue in respect of the contravention of any bye-law of which the observance has been dispensed with under the proviso to sub-section (*1*).

(*3*) This section shall not take effect in any municipality until it has been specially declared to apply thereto by the Local Government at the request of the committee.

Removal of projections and obstructions.

94. (*1*) It shall not be lawful, unless with the permission in writing of the committee, for the owner or occupier of any building in a street to add to or place against or in front of the building any projection or structure overhanging, projecting into, or encroaching on, the street, or any sewer or aqueduct therein.

(*2*) The committee may, by notice in writing, require the owner or occupier of any building to remove or alter any projection, encroachment, or obstruction built or placed against, or in front thereof, if the same overhangs or projects into, or encroaches on, any street, or any sewer or aqueduct in the street, or any door, gate, bar, window, venetian, shutter or other thing opening outwards into any street so as to cause any obstruction therein:

Provided that in the case of a projection, encroachment or obstruction lawfully in existence at the commencement of this Act, the committee shall make reasonable compensation to any person who suffers damage by the removal or alteration:

Provided also that in lieu of requiring the removal or alteration of any such projection, encroachment, obstruction, door, gate, bar, window, venetian, shutter or other thing opening outwards into a street, the committee may, upon such terms as to it shall seem fit, grant permission for the continuance thereof, either at the will of the committee or for a period of years not exceeding seven, and may reserve a rent for such permission.

(*3*) The committee may give permission in writing to the owners or occupiers of buildings in streets to put up open verandahs, balconies, or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement-wall, and at a height from the level of the ground or street to be specified in such written permission.

Exemption as regards Government buildings.

95. (*1*) Nothing in sections 89 to 94 both inclusive shall apply to any building or land within the limits of a municipality which building or land is the property of Her Majesty; but the Local Government shall, with the previous sanction of the Governor General in Council, as soon as conveniently may be after the commencement of this Act, make rules to regulate the manner in which committees shall be consulted as to any such buildings which it is proposed to construct, add to or alter.

(2) Rules made under this section shall, amongst other things, provide that any objection taken by the committee to the construction of, addition to, or alteration in, any such building as aforesaid shall be considered and decided by the Local Government, and that an appeal to the Governor General in Council shall lie from every order passed by the Local Government on such objection.

(3) The power to make rules under this section is subject to the condition of their being made after previous publication, and the rules shall not take effect until they have been published in the gazette.

Bathing and Washing Places.

Bathing and washing places.

96. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants; and may, by public notice, prohibit bathing or the washing of animals or clothes in any public place not so set apart, or at times or by persons other than those so specified, and any other acts, to be specified in such notice, by which water in public places may be rendered foul or unfit for use.

Deposit of Offensive Matter.

Removal and deposit of offensive matter.

97. The committee may fix places within, or, with the approval of the Deputy Commissioner, beyond, the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind, or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Special conservancy in certain towns.

98. (1) The committee of any municipality to which the Local Government may, by notification in the gazette, apply the provisions of this section, shall provide for the cleansing of all streets, drains and public places within the limits of such municipality, and the removal therefrom of all refuse or rubbish of every kind, and shall provide for the removal of all house refuse of any kind from premises within such limits.

(2) The committee shall provide within the limits of the municipality sites and places for the collection, deposit, or disposal of all refuse, rubbish, and offensive matter: Provided that the Local Government may require the

said committee, in lieu of, or in addition to, such sites and places, to provide sites and places for such deposit and disposal beyond such limits.

(*3*) The committee may by public notice require the owners or occupiers of premises within the whole or any specified portion of the municipal limits, to provide proper receptacles for collecting and keeping such refuse, rubbish and offensive matter prior to removal by the committee or its agents, and to place such receptacles where they may conveniently be emptied by the persons employed by the committee to remove the same.

Slaughter of Animals.

Licensing, inspection and regulation of slaughter-houses.

99. The committee may make bye-laws—

(*a*) for rendering licenses necessary for the use of any building or land within the municipality as a slaughter-house and for fixing the fees to be paid for such licenses and the conditions subject to which they may be granted and revoked ;

(*b*) for the inspection and proper regulation of slaughter-houses.

Places for slaughter of animals for sale.

100. (*1*) The committee may, with the approval of the Deputy Commissioner, fix and abolish places, either within or beyond the limits of the municipality, for the slaughter of animals or of any specified description of animals for sale of their flesh, and may, with the like approval, grant and withdraw licenses for the use of such places, or, if they belong to the committee, charge rent or fees for the use of the same.

(*2*) When such places are fixed by the committee beyond the limits of the municipality, it shall have the same powers in respect of the inspection and proper regulation of the same as if they were within those limits.

(*3*) When any such place has been fixed, no person shall at any other place slaughter for sale of its flesh within the municipality any such animal.

Regulation of the slaughter of animals for other purposes.

101. Whenever it appears to the District Magistrate to be necessary for the preservation of the public peace or order, he may, with the previous sanction of the Commissioner, prohibit or regulate, by proclamation published in such manner as the Local Government may by rule prescribe, the slaughter within the limits of a municipality, or of any portion thereof, of animals or of any specified description of animals, for purposes other than sale, and may by order prescribe the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

Sale of Food, Drink and Drugs.

Bye-laws as to sale of food, drink and drugs.

102. (*1*) The committee may, by bye-law,—

(*a*) regulate the sale of any specified articles of food, drink or drugs either by rendering licenses necessary or otherwise ;

(*b*) fix fees for the grant of such licenses and prescribe the conditions subject to which they may be granted and revoked ;

(*c*) regulate the hours and manner of transport within the municipality of such specified articles of food, drink or drugs ;

(*d*) fix the places in which such specified articles of food, drink or drugs may or may not be sold or exposed for sale ;

(*e*) prohibit the sale of the flesh of animals not slaughtered in manner prescribed by section 99 or 100 ;

(*f*) require sellers of meat to procure from, and on requisition to produce to, the person or persons empowered in this behalf by the committee, passes showing that their meat has been slaughtered in a place fixed under section 100 or licensed under section 99 and in accordance with any bye-laws made under section 99 ; and

(*g*) regulate the sanitary condition of bakeries, dairies and places where milch animals are kept for profit :

Provided that no person shall be punishable for breach of any bye-law made under clause (*a*) or clause (*d*) by reason of the continuance of such sale or exposure for sale upon any premises which are at the time of the making of such bye-law used for such purpose, until he has received from the committee six months' notice in writing to discontinue such sale or exposure for sale in such premises.

(*2*) This section shall not take effect in any municipality until it has been specially[1] declared to apply thereto by the Local Government at the request of the committee.

Burial and Cremation.

Closure and formation of burial and burning places.

103. (*1*) The committee may, by public notice, order any burial or burning ground to be closed from a date to be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(*2*) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf :

Provided that the limits of such burial-places are sufficiently defined, and that they are used only for the burial of members of the family of the owner thereof.

(*3*) No burial or burning ground, whether public or private, shall be made or formed after the passing of this Act, without the permission in writing of the committee.

[1] For instances of such extensions, *see* Burma Gazette, 1899, Pt. I, pp. 280 and 359.

Removal of corpses.

104. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Precautions against Fire.

Precautions against fire.

105. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice—

(*a*) prohibit all persons from stacking or collecting bamboos, dry grass, straw, or other inflammable material, or lighting fires, in any place or within any limits specified in such notice;

(*b*) declare under what conditions, and at what times, fires may be lighted in any such place or within any such limits; and

(*c*) require the owners or occupiers of any buildings with thatched roofs within the municipality to place mats thereon of such descriptions as the committee may prescribe.

Entry and Inspection.

Inspection of sewers, etc.

106. (*1*) The committee, by any person authorized by it in this behalf, may, after giving six hours' notice in writing to the occupier of any land or building in which any sewers, sewerage-connections, privies or cesspools are situated, inspect any such sewers, sewerage-connections, privies or cesspools at any time, between sunrise and sunset, and may, if necessary, cause the ground to be opened where the committee or person may think fit for the purpose of preventing or removing any nuisance arising from the sewers, sewerage-connections, privies or cesspools.

(*2*) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists, or but for such opening would have arisen, the ground shall be closed and made good as soon as may be, and the expense of opening, closing and making it good shall be borne by the committee.

Inspection of buildings, etc., for sanitary purposes.

107. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice in writing to the occupier, or, if there is no occupier, to the owner, of any building, at any time between sunrise and sunset, enter and inspect the building, and may, by notice in writing, direct all or any part thereof to be forthwith internally or externally lime-washed, disinfected or otherwise cleansed for sanitary reasons.

Other powers of entry on buildings or land.

108. The committee, by any person authorized by it in this behalf, may, after giving twenty-four hours' notice in writing to the occupier, or, if there is no occupier, to the owner, at any time between sunrise and sunset—

(*a*) enter on and survey and take levels of any land;

(*b*) enter, inspect and measure any building for the purpose of valuation; and

(*c*) enter any building or land for the purpose of examining works under construction, of ascertaining the course of sewers or of executing or repairing any work which it is by this Act empowered to execute or maintain.

Discovery of vehicles or animals liable to taxation.

109. The committee, by any person authorized by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act and which has not been so taxed.

Inspection of places for sale of food or drink, etc., and seizure of unwholesome articles exposed for sale.

110. (*1*) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of any kind of food, drink or drugs for man, or for the preparation, manufacture or storage of the same for sale, or as a slaughter-house, and inspect and examine any food, drink, drug or animal which may be therein; and, if any article of food or drink or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same, or may cause it to be destroyed or to be so disposed of as to prevent its exposure for sale or its use for such consumption; and, in case any drug is reasonably suspected to be adulterated in such manner as to lessen its efficacy or to change its operation, or to render it noxious, may remove the same, giving a receipt therefor, and may cause it to be brought before a Magistrate for inquiry whether any offence has been committed in respect thereof, and for his orders as to its disposal.

Explanation.—Meat into which air has been blown, or which has been watered in order to make it appear fresher than it really is, shall be deemed to be unfit for human food.

(*2*) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any bakery, dairy or place where milch animals are kept for profit.

Inspection and seizure of food exposed in contravention of bye-laws.

111. (*1*) The committee, by any person authorized by it in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of any kind of food, drink or drugs for the regulation of the sale of which bye-laws have been made by the com-

mittee under section 102, and may seize any such food, drink or drug exposed for sale therein in contravention of such bye-laws.

(2) When any food, drink or drug is seized in any market, building, shop, stall or place under this section, it shall be removed by the officer seizing it from such market, building, shop, stall or place, as the case may be, and shall be disposed of in such manner as the committee may, by bye-law, direct.

Entry for purpose of scavenging

112. (1) The committee may provide for the removal of sewage or rubbish, or both, from any building or land, or from any water-closet, latrine, urinal, privy, sewer, cesspool, dust-bin, or other receptacle for sewage or rubbish in or upon any building or land.

(2) When the committee has undertaken to provide for the removal of sewage or rubbish, or both, as aforesaid, the persons employed by the committee for this purpose may enter any building, water-closet, latrine, urinal, privy, sewer, cesspool, dust-bin, or other receptacle for sewage or rubbish, or enter on any land, at all reasonable times, in so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorized by it in this behalf, may enter on such property at all reasonable times for the purpose of ascertaining whether such duties have been duly performed.

Precautions to be observed in entering dwelling.

113. When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers; and before any apartment in the actual occupancy of any woman who, according to custom, does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Drainage, Sewerage and Water-supply.

Troughs and pipes for rain-water.

114. The committee may, by notice in writing, require the owner of any building in any street to put up and keep in good condition proper and sufficient troughs and pipes for receiving and carrying the water from the roof and other parts of the building, and for discharging the water so that it shall not fall upon the street or damage the streets or other property vested in the committee.

Provision of privies and the like.

115. (1) The committee may, by notice in writing, require the owner of any building or land to provide, in such manner as it may direct, any water-closet, latrine, urinal, privy, sewer, cesspool, trap, sink, sulliage-tray or ventilating-pipe, or to provide any additional water-closets, latrines, urinals

privies, sewers, cesspools, traps, sinks, sulliage-trays or ventilating-pipes which should, in its opinion, be provided for such building or land.

(2) The committee may, by notice in writing, require any person employing more than twenty workmen or labourers, to provide such water-closets, latrines, urinals, privies, sewers, cess-pools, traps, sinks, sulliage-trays or ventilating-pipes as it may think fit, and to cause the same to be kept in proper order and to be daily cleansed.

(3) The committee may, by notice in writing, require the owner or occupier of any building or land to have any water-closet, latrine, urinal or privy provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as it may direct, any door or trap-door of a water-closet, latrine, urinal or privy opening on to any street or drain.

Closing, alteration and repair of privies and the like.

116. (*1*) The committee may, by notice in writing, require the owner or occupier of any building or land to close, remove, repair, alter or put in good order any water-closet, latrine, urinal, privy, sewer, cesspool, or other receptacle for filth or refuse or any trap, sink, sulliage-tray or ventilating-pipe belonging thereto.

(2) The committee may, by notice in writing, require any person who makes or alters any sewerage-connection, water-closet, latrine, urinal, privy, sewer, ce-spool, trap, sink, sulliage-tray or ventilating-pipe without its permission in writing, or contrary to its bye-laws, directions or regulations or to the provisions of this Act, or who constructs, rebuilds or opens any sewerage-connection, water-closet, latrine, urinal, privy, sewer, cesspool, trap, sink, sulliage-tray or ventilating-pipe which it has ordered to be demolished or stopped up or not to be made, to demolish such sewerage-connection, water-closet, latrine, urinal, privy, sewer, cesspool, trap, sink, sulliage-tray or ventilating-pipe, or to make such alteration therein as it may think fit.

Making and maintaining sewerage connection with sewer.

117. (*1*) Where any building or land situated within one hundred feet of a sewer set apart by the committee for sulliage, sewage or other offensive matter, is at any time not provided to the satisfaction of the committee with a sufficient sewerage-connection with such sewer, the committee may, by notice in writing, require the owner of such building or land to make and maintain a sewerage-connection with the sewer in such manner as it may by bye-law direct.

(2) The provisions of sections 144 and 145 shall apply to any default in compliance with a requisition under sub-section (*1*) notwithstanding that part of the land through which the said sewerage-connection is required to pass may

not belong to the person so making default, unless such person shall prove that the default was caused by the act of the owner or occupier of such last-mentioned land.

(*3*) This section shall not take effect in any municipality until it has been specially declared to apply thereto by the Local Government at the request of the committee.

Carriage of sewerage-connection or water-connection through adjoining land.

118. (*1*) If it appears to the committee that the only or most convenient means by which the owner of any building or land can make a sewerage-connection or water-connection is by carrying the same into, through or under land belonging to, or occupied by, another person, the committee, after giving such other person a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to it to be invalid or insufficient, by notice in writing, require such other person to permit the owner first-mentioned to carry the sewerage-connection or water-connection into, through or under his land in such manner as shall be specified in the said notice, and on such equitable terms as to compensation for disturbance or temporary damage as to the committee may appear reasonable.

(*2*) After the service of the said notice the committee may, by an order in writing, authorize the first-mentioned owner to carry the sewerage-connection or water-connection into, through, or under the said land in the manner aforesaid, and every such order shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose after giving to such other person as aforesaid reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen at any time between sunrise and sunset, and to construct the said sewerage-connection or water-connection, and thereafter, upon the necessity arising and after the like notice, to repair and alter the same, or to construct a new sewerage-connection or water-connection in place thereof in such manner and at such time as aforesaid.

Compensation for use of land for sewerage or water-connection.

119. All compensation payable to such other person as aforesaid under the foregoing section shall be paid by the committee out of the municipal fund, and the committee may recover the amount from the first-mentioned owner as if it were an arrear of tax.

Connection with existing sewerage-connection or water-connection.

120. If it appears to the committee that it is desirable to use an existing sewerage-connection for the purpose of connecting any building or land with the sewers, or to use an existing water-connection for the purpose of supplying water to any building or land, the committee may, by notice in writing,

require the owner of such sewerage-connection or water-connection to allow a connection therewith to be made on such terms as may to it seem equitable:

Provided that the owner of such sewerage-connection or water-connection may refuse to allow the connection to be made until any payment to which he may be entitled in respect thereof has been made by the committee, which payment may be recovered by the committee as if it were an arrear of tax from the owner of any building or land served by the connection made under the circumstances aforesaid.

Access for scavenging.

121. The committee may, by notice in writing, require the owner of any land to allow its servants such reasonable access to, or passage over, his land for scavenging purposes as it may direct.

Removal of unauthorized buildings over drains, etc.

122. The committee may, by notice in writing, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, water-course or water-pipe vested in the committee, to pull down or otherwise deal with the same as it may think fit.

Drainage, etc., of unwholesome tanks, etc.

123. The committee may, by notice in writing, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive:

Provided that, if, for the purpose of effecting any drainage under this section, it is necessary to acquire any land not belonging to the person who is required to drain his land, or any easement over land not so belonging, or to pay compensation to any other person, the committee shall acquire such land or pay such compensation.

Dangerous Buildings and Places.

Repair, etc., of buildings, wells, tanks, etc.

124. If any building or any well, tank or other excavation is, for want of sufficient repair, protection or enclosure, dangerous to persons passing by or dwelling or working in the neighbourhood, the committee may, by notice in writing, require the owner or occupier thereof to repair, protect or enclose the same; and, if it appears to it to be necessary, in order to prevent imminent danger, it shall forthwith take such steps as may be necessary to avert such danger.

Removal of buildings, etc., in ruinous or dangerous state.

125. If any building, wall, structure or anything affixed thereto is in a ruinous state or in any way dangerous, the committee may, by notice in writing, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made therein as it considers necessary for

the public safety ; and, if it appears to it to be necessary in order to prevent imminent danger, it shall forthwith take such steps as may be necessary to avert such danger.

Buildings and Grounds in Unsanitary Condition.

Clearance of noxious vegetation.

126. The committee may, by notice in writing, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation, jungle or undergrowth injurious to health or offensive to the inhabitants in the neighbourhood.

Trimming of hedges and trees bordering on streets, wells, etc.

127. The committee may, by notice in writing, require the owner or occupier of any land within three days to cut or trim the hedges thereof bordering on any street, or the branches of trees growing thereon and overhanging any street so as to cause obstruction or danger therein, or overhanging any well, tank or other source from which water is derived for public use so as to be likely to pollute the water thereof.

Fencing of land.

128. The committee may, by notice in writing, require the owner of any land to erect, and thereafter to maintain, a fence around such land, or to put in repair to the satisfaction of the committee any existing fence on such land.

Cleansing of filthy buildings or land.

129. If the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice in writing, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state.

Prohibition of use for human habitation of buildings unfit for such use.

130. If any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage, water-supply or ventilation, or for any other sufficient reason, the committee may, by notice in writing, prohibit the owner or occupier thereof from using the same for human habitation or suffering it to be so used until it has been rendered fit for such use.

Enclosure of land resorted to by disorderly persons.

131. The committee may, by notice in writing, require the owner of any building or land, which is a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same to the satisfaction of the committee within a reasonable time to be fixed in such notice.

Prohibition of cultivation, use of manure or irrigation injurious to health.

132. The Local Government may, on the report of the Sanitary Commissioner or of the Civil Surgeon that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner in any place within the limits of any municipality is injurious to the health of persons dwelling in the neighbourhood, by public notice prohibit the cultivation of such crop, the use of such manure or the

use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent injury arising therefrom :

Provided that, when on any land to which such public notice applies, the act prohibited has been practised during the five years next preceding such public notice, in the ordinary course of husbandry, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such public notice.

Offensive and Dangerous Trades.

Regulation of offensive and dangerous trades.

133. (*1*) Unless it has been registered for that purpose under Act XVII of 1884,[1] no place within the municipality shall be used for any of the following purposes, namely :—

melting tallow ;

boiling bones, offal or blood ;

as a soap-house, oil-boiling house, dyeing-house or tannery ;

as a brick-kiln, lime-kiln or pottery ;

as any other manufactory, store-house or place of business from which offensive or unwholesome smells arise ;

as a place for keeping or breeding pigs ;

as a yard or depôt for trade in hay, straw, thatching-grass, wood or coal, or other dangerously inflammable material ;

as a store-house for kerosene, petroleum, naphtha or any inflammable oil, spirit or explosive substance ;

except under a license from the committee, which shall be renewable annually.

(*2*) The license shall not be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in, or frequenting, the immediate neighbourhood.

(*3*) The committee may impose such conditions in respect of such license as it may think necessary, and may withdraw such license for breach of any condition so imposed, and may levy a fee not exceeding five rupees for each license.

Prohibition of such trades.

134. If it is shown to the satisfaction of the committee at a meeting that any place registered or licensed under the last foregoing section is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, it may, by notice in writing, require the occupier thereof to discontinue the use of

[1] Since rep. by the Burma Laws Act, 1898 (XIII of 1898). *See* the Fifth Schedule, *supra*, p. 286.

the place, or to use it in such manner as will, in the opinion of the committee, render it no longer a nuisance or likely to be dangerous.

Epidemic Disease.

Obligation to report outbreak of cholera and small-pox.

135. In the event of any person within the municipality, other than a patient in a public hospital, being attacked with cholera or small-pox—

(*a*) every medical practitioner or person openly and usually practising the medical profession, who in the course of such practice becomes cognizant of the fact, and

(*b*) the owner and occupier of the building in which the person so attacked may be residing, and

(*c*) every person in charge of or in attendance on any person so attacked,

shall, as soon as he becomes cognizant of the fact, forthwith report the same, or cause a report thereof to be made, to the committee, or to such officer as the committee may appoint in this behalf:

Provided that no person shall be bound to make such report, or to cause such report to be made, if he has reasonable ground for believing that a report has already been or will be duly made by some other person.

Removal of cholera or small-pox patient.

136. When any person suffering from cholera or small-pox is—

(*a*) without proper lodging or accommodation, or

(*b*) living in a *zayat* or inn, or in a building registered as a lodging-house in pursuance of bye-laws under section 142, clause (*d*), or

(*c*) living in a room or house which he neither owns nor pays rent for,

the committee, by any person authorized by it in this behalf, may on the advice of its Health Officer (if any) or of any medical officer of rank not inferior to that of an Assistant Surgeon, or of a Hospital Assistant in independent charge of a hospital or dispensary, remove the patient to any hospital or place at which persons suffering from such diseases are received for medical treatment, and may do anything necessary for such removal.

Application of sections 135 and 136 to plague, etc.

137. The Local Government may, by notification in the gazette, declare that the provisions of sections 135 and 136 shall apply to plague, yellow fever, or other dangerous epidemic disease for a period to be specified in such notification.

Extinction of Fire.

Establishment and maintenance of fire-brigade.

138. (*1*) For the prevention and extinction of fire the committee may establish and maintain a fire-brigade, and may provide any implements, machinery or means of communicating intelligence which it may think necessary for the efficient discharge of their duties by the brigade.

(*2*) The committee may recognize and aid a volunteer fire-brigade, and make bye-laws for the guidance, training, discipline and conduct of the members thereof.

Powers of fire-brigade and other persons for suppression of fire.

139. (*1*) On the occasion of a fire the person directing operations for extinguishing or arresting the fire or for saving life or property being—

(i) a Magistrate, or

(ii) a police-officer of or above the rank of Inspector, or

(iii) a member or officer of the committee, or

(iv) a member of a fire-brigade maintained or aided by the committee,

may give orders for the following matters:—

(*a*) the removal of any person who by his presence interferes with or impedes such operations;

(*b*) the closure of any street or passage in or near which the fire is burning;

(*c*) the breaking into or through or demolition of any premises, or the use thereof for the passage of any hose or other appliance, and the taking of water from any stream, tank, cistern, well or other source or store of water, whether public or private property;

(*d*) the closure of mains and pipes so as to give greater pressure of water in or near the place where the fire has occurred;

(*e*) the rendering of such assistance as he may deem advisable by the persons in charge of any fire-engine or others; and

(*f*) generally such measures as may appear necessary for the preservation of life or property.

(*2*) No person shall be liable to pay damages for any act done by him in good faith under sub-section (*1*).

(*3*) Any damage caused by the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

(*4*) Every person empowered by sub-section (*1*) to do any of the acts enumerated therein shall in that behalf for the purposes of Chapter X of the XLV of 1860. Indian Penal Code[1] be deemed to be a public servant within the meaning of section 21 of the said Code.

Power of Local Government to make rules concerning the use of the foregoing powers.

140. The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by rules made in this behalf by the Local Government.

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

Application of sections 138 to 140.

141. Sections 138, 139 and 140 shall not take effect in any municipality until they have been specially declared to apply thereto by the Local Government at the request of the committee.

Additional Power to make Bye-laws.

Power to make various bye-laws.

142. The committee may, from time to time, at a special meeting, make bye-laws—

(*a*) for rendering licenses necessary for the proprietors or drivers of vehicles, boats or beasts plying for hire within the limits of the municipality, and for fixing the fees payable for such licenses and the conditions on which they shall be granted and may be revoked;

(*b*) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of beasts hired to carry loads, or for the services of persons hired to carry loads, and the loads, to be carried by such conveyances, beasts or persons, where they are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;

(*c*) for securing a proper registration of births, marriages and deaths and for the taking of a census;

(*d*) (i) for fixing, and from time to time varying, the number of persons who may occupy a lodging-house, for rendering licenses necessary for the proprietors or keepers of lodging-houses and for fixing the fees payable for such licenses and the conditions subject to which they shall be granted and may be revoked;

(ii) for the registration and inspection of lodging-houses;

(iii) for promoting cleanliness and ventilation in lodging-houses;

(iv) for the precautions to be taken in the case of any infectious disease breaking out in a lodging-house; and

(v) generally for the proper regulation of lodging-houses;

(*e*)[1] for rendering licenses necessary for pawn-brokers and determining by public auction or otherwise the amount to be paid for any such license and the conditions subject to which they shall be granted and may be revoked;

(*f*) for rendering licenses necessary for the establishment of any new market and fixing the fees to be paid for such licenses and the conditions subject to which they may be granted and revoked;

[1] For instance of such bye-laws made by the Rangoon Municipal Committee, *see* Notification No. 81, Burma Gazette, 1899, Pt. I, p. 392.

(*g*) for the inspection and proper regulation of encamping-grounds, [1]pounds, *zayats*, wharves not within the limits of any port, markets, washermen's tanks, and public washing and bathing places;

(*h*) for controlling and regulating the use of any public river, creek or stream, and the foreshore and banks thereof, within the municipality and not included within the limits of a port, and for levying fees for the use of the same;

(*i*) for regulating the disposal of food, drink or drugs seized under section 110 or 111;

(*j*) for the holding of fairs and industrial exhibitions within the municipality and under the committee's control;

(*k*) for controlling and regulating the use and management of burial and burning grounds;

(*l*) for the supervision and regulation of public wells, tanks, springs or other sources from which water is, or may be made, available for public use;

(*m*) for requiring and regulating the exhibition of tables showing the rates of tolls chargeable on vehicles and animals entering the municipality;

[2](*n*) for requiring occupiers of houses to keep ready at hand buckets or pots of water, hooks, bamboo-flappers, and other appliances for extinguishing small fires;

(*o*) for prescribing, notwithstanding the provisions of Act XXXI of 1871,[3] the standard weights and measures to be used within the municipality;

(*p*) for protecting from injury or interference anything within the municipality which is the property of the committee;

[2](*q*) for regulating or prohibiting the exposure of goods for sale on the streets and for levying fees from persons setting up stalls or otherwise selling goods on streets;

(*r*) for regulating or prohibiting the keeping of animals of any specified description; and

(*s*) generally, for carrying out the purposes of this Act:

Provided that the committee of a municipality in which the Hackney Carriage Act, 1879,[4] is in force, shall not make bye-laws under clauses (*a*) and (*b*) in respect of any vehicles to which that Act applies.

XIV of 1879.

[1] For instance of such a bye law made by the Henzada Municipal Committee, *see* Burma Gazette, 1899, Pt. I, p. 292.

[2] For instances of bye laws made by the Tavoy Municipal Committee under clauses (*n*) and (*q*), *see* Burma Gazette, 1899, Pt. I, p. 280.

[3] Printed, General Acts, Vol. II, p. 211.

[4] Printed, *supra*, p. 39.

Supplemental.

Confirmation of bye-laws under Chapter VI.

143. (*1*) No bye-law made under any section of this Chapter shall come into force until it has been confirmed by the Local Government.

(*2*) The Local Government may, by notification, cancel its confirmation of any such bye-law, and thereupon such bye-law shall cease to have effect.

Execution of acts not done after notice.

144. (*1*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, such notice shall fix a reasonable time for doing the same :

Provided that it shall rest with the Court to determine in any case in which the question arises, whether the time so fixed was a reasonable time within the meaning of this Act.

(*2*) When the owner or occupier of any land or building fails to comply with the terms of any notice under this Chapter requiring him to do any act upon such land or building, the committee may, after six hours' notice, by its officers cause such act to be done.

Recovery of costs of execution.

145. (*1*) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and makes default in complying with such requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default.

(*2*) If the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent from time to time becoming due from him to the owner of the property in respect of which the payment is made or otherwise recover it from the owner :

(*3*) Provided that an occupier shall not be required to pay, under sub-section (*2*), any sum greater than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and after notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable : but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(*4*) Nothing in this section shall affect any contract between an owner and an occupier.

Compensation out of

146. (*1*) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise

of any of the powers vested in it, its officers and servants, under this Act, and shall make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised. municipal fund.

(2) If any dispute arises touching the amount of any compensation which the committee is required by this Act to pay for injury to any building or land, it shall be settled in such manner as the parties may agree upon, or in default of agreement, in the manner provided by the Land Acquisition Act, 1894,[1] so far as the provisions of the said Act can be made applicable. I of 1894.

147. (1) Any person aggrieved by any order made by the committee under the powers vested in it by section 103, section 114, section 130 or section 134, may appeal within thirty days from the date thereof to the Commissioner or to the Deputy Commissioner, according as the Local Government may direct in this behalf; and no such order shall be liable to be called in question otherwise than by such appeal : Appeals against certain orders of committee.

Provided that, if the Deputy Commissioner is himself a member of the committee, the appeal shall lie to the Commissioner.

(2) The appellate authority may, for sufficient cause, extend the period hereby allowed for an appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the order appealed against shall be final :

Provided that the order appealed against shall not be modified or set aside until the appellant and the committee have had a reasonable opportunity of being heard.

CHAPTER VII.

Offences affecting the Public Health, Safety or Convenience.

148. Whoever, without the permission of the committee or in disregard of its orders, throws or deposits, or permits any of his servants or the members of his household under his control to throw or deposit earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or public place, or into any public drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees. Deposit of earth, refuse, etc., on roads or drains.

149. Whoever disposes of the dead body of any animal in contravention Disposal of carcasses.

[1] Printed, General Acts, Vol. VI, p. 100.

of section 97 or of the committee's directions thereunder shall be punishable with fine which may extend to one hundred rupees.

Discharging sewage.

150. Whoever, without the permission of the committee, causes or allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any street or public place, or into any drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Non-removal of filth, etc.

151. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any carcass, dirt, dung, bones, ashes, night-soil or filth, or any noxious or offensive matter, in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or altering sewers or drains without authority.

152. Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any sewer or drain leading into any of the sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees.

Disobedience of section 116.

153. Whoever neglects or refuses to comply with the requirements of any notice issued by the committee under section 116 shall be punishable with fine which may extend to twenty rupees, and when a notice has issued, with a further fine, not exceeding five rupees, for each day after the first on which the offender is proved to have persisted in the offence after the lapse of the period allowed for removal or closure.

Slaughtering animals for sale at unauthorized places.

154. Whoever slaughters any animal at any place in contravention of section 99 or 100 shall be punishable with fine which may extend to fifty rupees.

Slaughtering animals or conveying meat contrary to regulations.

155. Whoever slaughters any animal or conveys meat from the place of slaughter in contravention of any prohibition, regulation or order under section 101, shall be punishable with fine which may extend to two hundred rupees.

Feeding animals on deleterious substances.

156. Whoever feeds or allows to be fed any animal which is kept for dairy purposes, or may be used for food, on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

Contravention of bye-

157. Whoever in contravention of any bye-law made under section 102 sells or exposes for sale or transports any food, drink or drug, or works or keeps

any bakery, dairy or place where milch animals are kept for profit, shall be punishable with fine which may extend to two hundred rupees. laws under section 102.

158. Whoever in contravention of section 110 or section 111 refuses to suffer inspection of any premises, food, drink, drug or animal shall be punishable with fine which may extend to two hundred rupees. Refusal to suffer inspection under section 110 or 111.

159. Whoever cultivates any description of crop, uses any kind of manure, or irrigates in any specified manner in contravention of the terms of a public notice issued under section 132, shall be punishable with fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day after the date of the first conviction on which the offender is proved to have persisted in the offence. Using manure, etc., in contravention of section 132.

160. Whoever, without the registration or license required by section 133, uses any place for any of the purposes mentioned in that section, shall be punishable with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day after the date of first conviction on which the offender is proved to have persisted in the offence. Carrying on offensive or dangerous trade without license.

161. Whoever, after notice has been given by the committee under section 134, uses any place registered or licensed under section 133, in such manner as to be dangerous to life, health or property, or a nuisance to the neighbourhood, shall be punishable with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day after the date of first conviction on which the offender is proved to have persisted in the offence. Continuing certain nuisances after notice.

162. Whoever drives any vehicle after dark in any street, unless the vehicle is properly supplied with lamps, shall be punishable with fine which may extend to twenty rupees. Driving vehicles without proper lamps.

163. Whoever discharges fire-arms or lets off fire-works or fire-balloons, without the permission of such officer as the Local Government may appoint[1] in this behalf or in a place other than that specified by such officer, and whoever engages in any game in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees. Discharging fire-arms, etc.

164. Whoever allows any animal in his possession or under his control and power to stray into or be loose in any street, or in any unfenced place adjacent to a street, and whoever fastens or tethers any such animal so near to any street as to render it possible for it to enter into such street, shall be punishable with fine which may extend to twenty rupees. Allowing animals to stray on street.

[1] For instance of such appointments, *see* Notification No. 10, dated 14th January, 1899—Burma Gazette, 1899, Pt. I, p. 49.

Riding, driving or leading of animals or vehicles contrary to public notice.

165. Whoever, in contravention of a public notice issued by the committee under section 85, rides, drives or leads any animal or vehicle, shall be punishable with fine which may extend to twenty rupees.

Hanging articles over streets.

166. Whoever, without the permission in writing of the committee, spreads or deposits or hangs out or suspends on or over any street any cloth, mat, goods or any article whatsoever, shall be punishable with fine which may extend to twenty rupees.

Suffering dogs to be at large.

167. Whoever, being the owner or person in charge of any dog which is likely to annoy or intimidate persons passing by, neglects to restrain it so that it shall not be at large without a muzzle in any street or public place, shall be punishable with fine which may extend to twenty rupees.

Altering, obstructing or encroaching upon streets, etc.

168. Whoever, without the permission of the committee, alters, obstructs or encroaches upon any street, drain or water-course, or displaces, takes up or alters the pavement or other materials, or the fences or posts, of any street or public place, or deposits building materials, or makes any hole or excavation on or in any street, shall be punishable with fine which may extend to fifty rupees.

Quarrying, blasting, cutting timber or building.

169. Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Exposure, etc., of infected persons and things.

170. Whoever—

(1) while suffering from any dangerous infectious disorder, wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor or driver thereof that he is so suffering, or

(2) being in charge of any person so suffering, so exposes the sufferer, or

(3) gives, lends, sells, keeps, transmits or exposes without previous disinfection any bedding, clothing, rags or other things which have been exposed to infection from any such disorder,

shall be punishable with fine which may extend to fifty rupees; and whoever, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall also

be ordered by the Court to pay to the owner or driver the amount of any loss and expense which may be incurred in carrying into effect any measures requisite for the disinfection of such conveyance:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

Failure to provide for disinfection of public conveyance.

171. Every owner or driver of a public conveyance, which has to his knowledge conveyed any person suffering from a dangerous infectious disorder, shall disinfect such conveyance to the satisfaction of the committee, who may by any person authorized by it in this behalf inspect the process of disinfection, and such owner or driver, if he fails to disinfect such conveyance as aforesaid, shall be punishable with fine which may extend to fifty rupees, but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense likely to be incurred by him in carrying into effect the provisions of this section.

Omission to report cholera or small-pox, etc.

172. Whoever, being bound by section 135 to report the existence of cholera or small-pox, or other dangerous epidemic disease to which the provisions of section 135 have been applied under section 137, fails to make such report, shall be punishable with fine which may extend to fifty rupees.

Leaving hospital without permission.

173. Whoever, having been removed to a hospital under section 136, leaves such hospital without the permission of the medical officer in charge thereof, shall be punishable with fine which may extend to fifty rupees.

Picketing animals and collecting carts.

174. Whoever, contrary to the orders of the committee, pickets animals or collects carts on any public ground, or uses any such ground as a halting-place for vehicles or animals of any description, or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to twenty rupees.

Keeping corpses or carrying corpses by prohibited routes or so as to cause annoyance.

175. Whoever, without the permission of the committee, keeps a corpse or causes it to be kept in or on any building or land when seventy-two hours, or, if the cause of death was cholera or small-pox, when twenty-four hours, after death have elapsed, or carries a corpse along a route prohibited by the committee, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to one hundred rupees.

Illegal burial or burning of corpses.

176. Whoever—

(*a*) buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed contrary

to the provisions of section 103 or after the date fixed thereunder for closing the same, or

(*b*) without the written permission of the committee buries or burns, or causes or permits to be buried or burnt, any corpse in any place other than a burial or burning ground authorized under section 103,

shall be punishable with fine which may extend to one hundred rupees.

Destroying direction-posts, lamp-posts, etc.

177. Whoever in a public place, without being authorized by the committee, defaces or disturbs any direction-post or lamp-post or fence, or injures any tree or gabion, or extinguishes any light, shall be punishable with fine which may extend to ten rupees.

Destruction of name-boards and number-boards.

178. Whoever destroys, pulls down, or defaces any name or number affixed by order of the committee under section 88, or puts up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to twenty rupees.

Unauthorized posting of advertisements.

179. (*1*) Whoever, not being authorized by law so to do, affixes any poster, advertisement or notice on any public property without the consent of the person in charge thereof, or on any private property without the consent of the owner or occupier thereof, shall be punishable with fine which may extend to twenty rupees.

(*2*) Any person by whose direction any such poster, advertisement or notice is so affixed shall be punishable as if he himself had affixed the same.

Disobedience to bye-laws and directions of committee under Chapter VI.

180. (*1*) Whoever disobeys any bye-law made or any lawful direction given by the committee by public notice under the powers conferred upon it by the last foregoing Chapter, or any notice in writing lawfully issued by it under the powers so conferred, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the date of first conviction on which the offender is proved to have persisted in the offence.

(*2*) In lieu of or in addition to imposing any fine under sub-section (*1*), the Magistrate may require the offender to remedy any mischief directly caused by his disobedience in so far as it lies in his power to do so.

Disorderly houses.

181. (*1*) On the complaint of three or more inhabitants that a house within the limits of the municipality is used as a brothel or by disorderly persons of any description, to the general annoyance of the inhabitants of the

vicinity, or of persons using any main street, any Magistrate of the first class, having, as such, jurisdiction in the place where such house is situated, may summon the owner or occupier of such house to answer the complaint; and, on being satisfied that such house is so used to such general annoyance, may order the owner or occupier to discontinue such use of it; and, if such owner or occupier fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter during which it is proved that the house has continued to be so used.

(2) The Local Government may, by notification, declare what shall be deemed to be main streets[1] for the purpose of sub-section (*1*).

(3) This section shall not take effect in any municipality until it has been specially extended[2] thereto by the Local Government at the request of the committee.

CHAPTER VIII.

CONTROL.

182. (*1*) The Commissioner or the Deputy Commissioner may—

Control by Commissioner and Deputy Commissioner.

(*a*) enter on and inspect, or cause to be entered on and inspected, any immoveable property situate within the limits of his division or district, as the case may be, and occupied by any committee, hospital sub-committee, school sub-committee or joint committee, or any work which is in progress within such limits under the direction of any such committee, sub-committee or joint committee;

(*b*) call for and inspect any book or document in the possession or under the control of any such committee, sub-committee or joint committee having authority within such limits;

(*c*) require any such committee, sub-committee or joint committee to furnish such statements, accounts, reports, and copies of documents relating to the proceedings or duties of such committee sub-committee or joint committee as he may think fit to call for; and

(*d*) record in writing, for the consideration of any such committee, sub-committee or joint committee, any observations he may think proper in regard to the proceedings or duties of such committee, sub-committee or joint committee:

[1] For instance of such notification concerning streets in Rangoon, *see* Notification No. 6, Burma Gazette, 1899, Pt. I, p. 19.

[2] For instance of such extension, *see* Burma Gazette, 1899, Pt. I, p. 359.

Provided that,—

(i) when the Deputy Commissioner is a member of a committee, sub-committee or joint committee, he shall not exercise, in respect of that committee, sub-committee or joint committee, the powers conferred upon him by this section ; and,

(ii) in the case of any municipality, the Local Government may, by notification in the gazette, direct that all or any of the powers conferred on the Commissioner and Deputy Commissioner by this section shall be exercised by it alone, and not by such Commissioner and Deputy Commissioner.

(*2*) When the Local Government, the Commissioner or Deputy Commissioner requests the committee to consider any observations under sub-section (*1*), clause (*d*), nothing in any bye-law made under section 30 shall prevent such consideration.

Power to suspend action under Act.

183. (*1*) The Commissioner or the Deputy Commissioner may, by order in writing, suspend within the limits of his division or district, as the case may be, the execution of any resolution or order of a committee or joint committee, or prohibit the doing within such limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, such resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(*2*) When the Commissioner or Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it and of any representations regarding it submitted to him by the committee, to the Local Government, which may thereupon rescind the order or direct that it shall continue in force, with or without modification, permanently or for such period as it may think fit.

Extraordinary powers of Deputy Commissioner in cases of emergency.

184. (*1*) In cases of emergency, the Deputy Commissioner may provide for the execution of any work, or the doing of any act which a committee is empowered to execute or to do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be forthwith paid by the committee.

(*2*) If the expense is not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time

to time possible, from the balance in preference to any or all other charges against the same.

(*3*) The Deputy Commissioner shall forthwith report to the Commissioner every case in which he uses the powers conferred upon him by this section.

Powers of Local Government in case of default of committee.

185. (*1*) If at any time it appears to the Local Government that the committee has made default in performing any duty imposed on it by or under this or any other Act for the time being in force, the Local Government may, by order in writing, fix a period for the performance of such duty.

(*2*) If such duty is not performed within the period so fixed, the Local Government may appoint the Deputy Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Deputy Commissioner by the committee.

(*3*) If the expense is not so paid, the Deputy Commissioner, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible, from the balance in preference to any or all other charges against the same.

Powers of Local Government and its officers over committees.

186. (*1*) The Local Government and the Commissioner and Deputy Commissioner, within their respective jurisdictions, acting under the orders of the Local Government, shall be bound to require the proceedings of every committee to be in conformity with law and with any rules in force under any enactment for the time being applicable to Burma generally or to the area over which such committee has authority.

(*2*) The Local Government may exercise all powers necessary for the performance of this duty, and may, amongst other things, by order in writing annul or modify any proceeding which it may consider not to be in conformity with law or with any such rules as aforesaid.

(*3*) The Commissioner and the Deputy Commissioner may, within their respective jurisdictions, for the same purpose, exercise such powers as may be conferred upon them by rule made in this behalf by the Local Government.

Power of Local Government to supersede committee in case of incompetency, persistent default, or

187. (*1*) If the committee is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous sanction of the Governor General in Council, by an order published, with the reasons for making it, in the gazette, declare the committee to be incompetent, or in default, or

excess or abuse of powers.

to have exceeded or abused its powers, as the case may be, and direct its supersession for a period to be specified in such order.

(*2*) When the committee is so superseded, the following consequences shall ensue, namely :—

(*a*) all members of the committee shall, as from the date of the order published under sub-section (*1*), vacate their offices as such members ;

(*b*) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Local Government shall appoint in that behalf ; and

(*c*) all property vested in the committee shall, during the period of supersession, vest in the Local Government.

(*3*) On the expiration of the period of supersession specified in the order published under sub-section (*1*), the committee shall be reconstituted, and the persons who vacated their offices under sub-section (*2*), clause (*a*), shall not, if otherwise qualified, be deemed disqualified from being members thereof.

Disputes.

188. (*1*) If any dispute for the decision of which this Act does not otherwise provide arises between the committee and any other local authority, it shall be referred—

(*a*) to the Deputy Commissioner if the local authorities concerned are in the same district ;

(*b*) to the Commissioner if the local authorities concerned are in different districts of the same division ;

(*c*) to the Local Government if the local authorities concerned are in different divisions.

(*2*) The decision of the authority to which any dispute is referred under this section shall be final.

(*3*) If in the case mentioned in sub-section (*1*), clause (*a*), the Deputy Commissioner is one of the persons constituting any of the local authorities concerned, his functions under this section shall be discharged by the Commissioner.

Annual reports and statements.

189. (*1*) The committee shall, at the close of each year or of such other period as may, from time to time, be fixed by the Local Government in this behalf, submit to the Local Government a statement of its receipts and disbursements in such form as the Local Government may prescribe, and a general report of its proceedings during that period :

Provided that separate accounts shall be submitted of—

(*a*) all receipts of the water-tax, and all expenditure on the purposes for which the water-tax is levied ;

(*b*) all receipts of the lighting-tax, and all expenditure on the purposes for which the lighting-tax is levied ;

(*c*) all receipts of the latrine-tax, and all expenditure on the purposes for which the latrine-tax is levied ;

(*d*) all receipts of the scavenging-tax, and all expenditure on the purposes for which the scavenging-tax is levied ;

(*e*) all income under the heads mentioned in section 73, and all expenditure on educational purposes ; and

(*f*) all income under the heads mentioned in section 74, and all expenditure on medical purposes

(*2*) Accounts submitted under this section shall be examined or audited in such manner as the Local Government may prescribe.

Estimates of receipts and expenditure.

190. (*1*) The committee shall submit, before such date in each year as may be directed by the Local Government, for the sanction of such authority as the Local Government may appoint on this behalf, an estimate of its probable receipts for the financial year next following, with proposals for the expenditure, and may, from time to time, submit in like manner further estimates or proposals in modification of those submitted as aforesaid.

(*2*) No expenditure shall be incurred by a committee unless it is provided for in an estimate and proposals sanctioned under this section.

(*3*) An abstract of the annual estimate and proposals submitted and sanctioned as required by this section shall be published in such manner as the Local Government shall direct.

Sanction to works

191. (*1*) No work, the estimated cost of which exceeds five hundred rupees, shall be begun by the committee, nor shall any contract be entered into by it in respect of any such work, until a plan and estimate thereof have been approved by the committee at a meeting.

(*2*) If the estimated cost of any such work has not been specifically provided for in proposals submitted and sanctioned in manner mentioned in section 190, or exceeds—

twenty thousand rupees in the case of the municipalities of Moulmein, Bassein and Akyab, or

one-tenth of the estimated annual income of the municipal fund in the case of any other municipality,

such work shall not be begun, nor shall any contract be entered into in respect of it, until the plan and estimate have been submitted to and approved by the

Local Government, or by an officer empowered by the Local Government in this behalf.

Powers of Commissioner.

192. In all matters connected with the administration of this Act, the Commissioner shall have and exercise the same authority and control over every Deputy Commissioner subordinate to him as he has and exercises over such Deputy Commissioner in the general and revenue administration.

Power of Local Government to frame forms and make rules.

193. The Local Government may frame forms for any of the proceedings of committees for which it considers that a form should be provided, and may, in addition to rules made under any other powers conferred by this Act, make rules consistent with this Act—

(*a*) as to the officers to be addressed by committees when desirous of communicating with the Local Government or officers of the Local Government;

(*b*) as to the preparation of estimates of the receipts and expenditure of committees, and as to the conditions subject to which such estimates may be sanctioned;

(*c*) as to the returns, statements and reports to be submitted by committees;

(*d*) as to the keeping and auditing of the accounts of municipal funds, school funds and hospital funds;

(*e*)[1] as to the appointment and removal of officers and servants of committees; and

(*f*)[2] generally, for the guidance of committees and public officers in all matters connected with the carrying out of this Act.

CHAPTER IX.

SUPPLEMENTAL.

Criminal Procedure.

Powers and duties of police in respect of offences against Act, etc, and assistance to municipal authorities.

194. (*1*) Every police-officer employed within the limits of the municipality shall give immediate information to the committee of any offence committed against this Act or the rules or bye-laws thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(*2*) Any such police-officer may arrest any person committing in his view any offence against this Act or the rules or bye-laws thereunder—

(*a*) if the name and address of the person are unknown to him, and

[1] For instance of rules under this clause, *see* Notification No. 8, Burma Gazette, 1899, Pt. I, p. 19; *ibid* Notification No. 119, Burma Gazette, 1899, Pt. I, p. 463.

[2] For rule made under this clause as to procedure to be followed in the collection of all fees, rents and other sums due to a Municipal Committee, *see* Burma Gazette, 1898, Pt. I, p. 593.

(*b*) if the person declines to give his name and address, or there is reason to doubt the accuracy of the name and address if given.

(*3*) A person arrested under this section may be detained until his name and address are correctly ascertained :

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless an order of a Magistrate for his detention is obtained.

Prosecutions.

195. No Court shall take cognizance of any offence punishable under this Act or any rule or bye-law thereunder except on the complaint of the committee or of some person authorized by the committee in this behalf.

Explanation.—The committee may by resolution authorize persons to prosecute, either generally in regard to all offences against this Act and the rules or bye-laws thereunder, or specially in regard only to specified offences, or offences of a specified class. The person authorized may be authorized by office, if he is president, vice-president, *ex-officio* member, secretary, engineer, or health officer of the committee ; in other cases the authority must be personal. The authority must in all cases be in writing, and may at any time by resolution be cancelled by the committee.

Prosecution to be suspended pending appeal in certain cases.

196. Any prosecution for an offence under section 161, section 176, or section 180, when the order which has been disobeyed is appealable, shall, if and when the Court learns that an appeal has been instituted against such order, be suspended pending such appeal.

Power to compound offences.

197. (*1*) In any municipality the Local Government may empower[1] the committee or its president, vice-president, secretary, health officer or engineer, or any member appointed by office, or any sub-committee, to accept from any person, against whom a reasonable suspicion exists that he has committed an offence against this Act or any rule or bye-law thereunder, a sum of money by way of composition for such offence.

(*2*) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(*3*) Sums paid by way of composition under this section shall be credited to the municipal fund.

(*4*) Power under sub-section (*1*) to accept composition for alleged offences may be given either generally in regard to all offences under this Act and the rules and bye-laws thereunder, or particularly in regard only to specified

[1] For officers empowered to accept composition for certain offences under the Act, in all Municipalities to which the Act applies or may hereafter be applied, *see* Notification No. 22, *Burma Gazette*, 1899, Pt I, p. 137.

offences or offences of a specified class, and may at any time be withdrawn by the Local Government.

(5) The Local Government may make rules[1] to regulate the proceedings of persons empowered to accept composition under this section for alleged offences.

Member not to be deemed interested in prosecution.

198. No Judge or Magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence punishable under this Act or any rule or bye-law thereunder, or under any other law, within the meaning of section 555[2] of the Code of Criminal Procedure, 1882, by reason only of his being a member of the committee by the order or with the approval of which such prosecution has been instituted. X of 1882.

Saving of prosecutions under other laws.

199. Nothing in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission which constitutes an offence against this Act or the rules or bye-laws thereunder, or from being liable under any other law to any other or higher punishment or penalty than that provided by this Act or the rules or bye-laws thereunder:

Provided that no person shall be punished twice for the same offence.

Rules, Bye-laws and Public Notices.

Procedure for making bye-laws.

200. Before making any bye-law the committee shall publish, in such manner as may be sufficient for giving information to all persons interested, a draft of the proposed bye-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

Publication of rules, bye-laws, and public notices.

201. (*1*) Every bye-law shall, after being sanctioned or confirmed by the Local Government, be published in the gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the bye-law was made in accordance with the requirements of this Act.

(*2*) Every public notice which, under this Act, does not require the sanction of, or confirmation by, the Local Government, and every rule which the Local Government is by this Act empowered to make other than a rule made under section 95, shall be published in such manner as the Local Government may by notification direct, and shall have no force or validity until so published.

[1] For rules made under this sub-section, *see* Notification No. 21, *Burma Gazette*, 1899, Pt. I, p. 137.

[2] *See* now s. 556 of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

Continuance of existing rules, etc.

202. Unless the Local Government, by notification, otherwise directs, all rules, bye-laws, orders, directions, notices, and powers made, issued, or conferred under the Lower Burma Municipal Act, 1884,[1] or the Upper Burma Municipal Regulation, 1887,[2] and in force in any local area being or comprised in a municipality constituted under this Act at the time the committee comes into existence under this Act, shall, in so far as they are consistent with this Act and within the powers conferred thereby, be deemed to have been made, issued or conferred under this Act, and shall continue in force until superseded by rules, bye-laws, orders, directions, notices or powers made, issued or conferred under this Act.

XVII of 1884.
V of 1887.

Notices.

Authentication, service and validity of notice in writing.

203. (*1*) Every notice in writing issued by the committee under this Act shall be sufficiently authenticated by the signature of the president, vice-president, health officer, engineer or secretary, and may be served on the person to whom it is addressed or left at his usual place of abode or business with some adult male member or servant of his family, or if it cannot be so served, may be affixed to some conspicuous part of his place of abode or business.

(*2*) If the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(*3*) If the place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(*4*) If the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(*5*) No notice issued by the committee under this Act shall be invalid merely by reason of any defect of form.

Mode of giving notice in writing to unknown owner or occupier of property.

204. When any notice in writing is under the provisions of this Act to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served—

(*a*) by delivery to some person on the property, or, if there is no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property, or

[1] Rep by the Burma Laws Act, 1898 (XIII of 1898). *See* the Fifth Schedule, p inted, *supra*, p. 286.

[2] Printed, *supra*, p. 316.

(*b*) by posting a prepaid letter containing it, and addressed to the "owner" or "occupier" of the property (to be named) in respect of which the notice is given, without further name or description.

Powers to except Municipalities from provisions of Act.

Power to except municipality from provisions of Act unsuited thereto.

205. (*1*) If the circumstances of any municipality are such that, in the opinion of the Local Government, any of the provisions of this Act are unsuited thereto, the Local Government may, by notification, except the municipality from the operation of such provisions; and thereupon such provisions shall cease to apply to the municipality.

(*2*) While an exception notified under sub-section (*1*) remains in force, the Local Government may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

Recovery of Money claimable by Committees.

Recovery of taxes, etc.

[1]206. (*1*) Any arrears of any tax or fee or any other money claimable by the committee under this Act may be recovered as if they were arrears of land-revenue.

(*2*) The Local Government may by notification prescribe by whose order and on whose application such arrears may be recovered.

Miscellaneous.

Saving of Act XI of 1879.

207. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.[2] XI of 1879.

Decision of questions as to whether persons are "inhabitants."

208. If any question arises as to whether a person or persons of a specified class is or are an inhabitant or inhabitants of a local area within the meaning of this Act, it shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Power to extend Act XIX of 1884.

209. The Local Government may, by notification, extend to any municipality any of the provisions of the Rangoon Water-works Act, 1884,[3] other than those contained in section 3 thereof, and may, by such notification, declare with what modifications, not affecting the substance, such provisions shall apply to the said municipality. XIX of 1884

[1] For application of this section to the Maymyo Cantonment, *see* Notification No. 3, dated 19th January, 1899, Burma Gazette, 1899, Pt. 1, p. 49.

[2] Printed, General Acts, Vol. III, p. 259.

[3] Printed, *supra*, p 161.

CHAPTER X.

SMALL TOWNS.

Notification of area.

210. (*1*) The Local Government may, by notification, declare that, in respect of some or all of the matters upon which a municipal fund may be expended under section 72, improved arrangements are required within a specified area which nevertheless it is not expedient to establish as a municipality.

(*2*) An area with regard to which a notification has been issued under sub-section (*1*) is hereinafter called a "notified area."

(*3*) No area shall be declared a notified area if it contains more than ten thousand inhabitants according to the returns of the most recent official census, or unless it contains a town or bazaar and is not a purely agricultural village.

(*4*) The Local Government may at any time, in like manner, vary or rescind any notification issued under this section.

Power of Local Government.

211. (*1*) The Local Government may, by notification—

(*i*) impose in any notified area any tax which could be imposed there by the committee if the notified area were a municipality;

(*ii*) apply or adapt to the notified area for the assessment and recovery of any tax imposed under clause (*i*) any of the provisions of this Act, or of any rules for the time being in force with respect to the assessment and recovery of any tax imposed under this Act;

(*iii*) arrange for the due expenditure of the proceeds of taxes imposed under clause (*i*) and for the preparation and maintenance of proper accounts;

(*iv*) appoint, or empower the Commissioner to appoint, a committee, to be called a town-committee, of two or more persons, for the purposes of clauses (*ii*) and (*iii*);

(*v*) extend to any notified area the provisions of any section of this Act, subject to such restrictions and modifications (if any) as the Local Government may think fit; and

(*vi*) vary or rescind any notification issued under clause (*v*).

(*2*) The proceeds of any tax levied in any notified area under this section shall be expended in some one or more of the ways in which the municipal fund of such notified area might be expended if the notified area were a municipality.

Adaptation of Act.

212. For the purposes of any section of this Act which may be extended to a notified area, the town-committee appointed for such area under section 211 shall be deemed to be a committee and the area a municipality within the meaning of such section.

Expenditure of balance after cancellation.

213. When by reason of a notification under section 210, sub-section (*4*), any area ceases to be a notified area, the unexpended proceeds of any taxes levied therein in pursuance of the provisions of section 211 shall be applied for the benefit of the inhabitants of the said area in such manner as the Local Government may think fit.

THE LOWER BURMA TOWN AND VILLAGE LANDS ACT, 1898.

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SCHEDULED TOWNS.

BURMA ACT No. IV OF 1898.[1]

[APPLIES TO LOWER BURMA ONLY.]

[*7th March, 1898, 5th May, 1898.*]

An Act to declare and amend the law relating to interests in land in towns and villages in Lower Burma.

WHEREAS it is expedient to declare and amend the law relating to interests in land in towns and villages in Lower Burma, and to provide for the assessment and recovery of the revenue and other Government demands in

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1897, Pt. III, p. 7; for Report of Select Committee, *see ibid*, p. 93; and for Proceedings in Council, *see ibid*, Supplement, p. 1230, and *ibid*, 1898, Supplement, pp. 39 and 74.

respect thereof, and for other matters connected therewith; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Lower Burma Town and Village Lands Act, 1898.

(*2*) It extends to the whole of Lower Burma except the hill district of Arakan; and

(*3*) It shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

Land to which Act applies.

2. The provisions of this Act shall apply only to land in towns and villages.

Lands excepted from operation of Chapters II and IV.

3. (*1*) Nothing in Chapter II shall apply to the following lands, namely :—

(*a*) the soil of any river, canal, tank, drain, embankment, public road or natural water-course;

(*b*) land included in any cantonment;

(*c*) land occupied at the commencement of this Act for the purposes of any monastery, pagoda or other sacred building, and continuing to be used for the purposes of such monastery, pagoda or building;

VII of 1875. (*d*) land included in any fisheries as defined in the Burma Fisheries Act, 1875.[1]

(*2*) When the boundaries of any land exempt under this section from the operation of Chapter II need definition, and no other mode of defining them is provided by law, they shall be defined by the Revenue Officer.

(*3*) If before they are defined any question arises as to whether any land is included within them, such question shall be decided by the Revenue Officer.

(*4*) Nothing in Chapter IV shall apply to land included in any cantonment.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "State land" means all land of which no absolute and revenue-free grant has been made, recognised or continued by or on behalf of the British Government:

[1] Printed, *supra*, Pt. II, p. 5.

(*2*) "land at the disposal of Government" means—

(*a*) land in respect of which no person has acquired a landholder's right;

(*b*) land in respect of which no person holds any right created by grant or lease made by or on behalf of the British Government:

(*3*) "town" means an area declared by the Local Government by notification to be a town for the purposes of this Act, or constituted a municipality or town for the purposes of the Burma Municipal Act, 1898,[1] or of the Lower Burma Towns Act, 1892[2]: Burma Act III of 1898. IX of 1892

(*4*) "scheduled town" means a town specified in the schedule:

(*5*) "village" means an area appropriated to dwelling-places not included in the limits of a town:

(*6*) "Revenue Officer" means any person whom the Local Government may appoint by name or as holding an office to do anything to be done by a Revenue Officer under this Act, or under any rule made thereunder:

(*7*) "license" means a license in writing to use and occupy State land granted by a Revenue Officer authorized to grant the same:

(*8*) "possession" means the occupation of land by any person or by his servant, agent, guardian, trustee, mortgagee, tenant or licensee:

(*9*) "continuous possession" includes occupation of land by another person through whom or in whose right the present occupier has immediately succeeded in occupation, or by the servant, agent, guardian, trustee, mortgagee, tenant or licensee of any such person: and

(*10*) "landholder's right" means a permanent heritable and transferable right of use and occupancy in land in the landholder's possession, subject only—

(*a*) to the payment of all such revenue, taxes, cesses, rates and other impositions as may from time to time be imposed on such land under any law for the time being in force;

(*b*) to the reservation in favour of Government of all mines and mineral products and of all buried treasure, with full liberty to work and search for the same on payment to the landholder of compensation for damage to the surface of the land, and the

[1] Printed, *supra*, p. 485.
[2] Printed, *supra*, p. 232.

produce and buildings thereon, as estimated by the Revenue Officer.

Power of Local Government to define boundaries of towns and villages.

5. When the boundaries of any town or village need definition for the purposes of this Act, the Local Government may by notification define the same.

CHAPTER II.

OF RIGHTS IN LAND.

Application of Chapter.

6. Subject to the provisions of section 3, this Chapter shall apply to all lands in all towns and villages.

Rights which may be acquired over land.

7. No right of any description as against the Government shall be deemed to have been, or shall hereafter be, acquired by any person over any land in any town or village except the following, namely :—

(*a*) rights created by grant or lease made by or on behalf of the British Government;

XV of 1877. (*b*) rights acquired as against the British Government under the Indian Limitation Act, 1877[1];

(*c*) rights originating and acquired in any of the modes specified in the next following section, or in section 9 or section 10;

(*d*) rights legally derived from any right mentioned in clauses (*a*), (*b*) and (*c*) of this section.

Mode of acquisition of landholder's right.

8. Except in land in any scheduled town, and in land which the Local Government may, by notification, specially exempt from the operation of this section, a landholder's right shall be acquired by every person who, otherwise than under a grant or lease made by the British Government,—

(*a*) has had continuous possession of land for twelve years immediately preceding the commencement of this Act;

(*b*) having had continuous possession of any land for less than twelve years immediately preceding the commencement of this Act, shall have continuous possession thereof for twelve years computed from the date of original entry into possession;

(*c*) shall, after the commencement of this Act, have continuous possession under a license of any land at the disposal of Government, and pay all land-revenue and other public demands (if any) in respect thereof for twelve years.

[1]See now the revised edition as modified up to 1st April, 1899, published by the Legislative Department.

Mode of acquisition of landholder's rights in Akyab, Bassein and Prome.

9. In the towns of Akyab, Bassein and Prome every person who from the following dates, namely—

(*a*) in the case of Akyab, the first day of April 1852;

(*b*) in the case of Bassein, the first day of January 1876;

(*c*) in the case of Prome, the first day of January 1870;

has been in continuous possession of any land otherwise than under a grant or lease of the same from the British Government up to the commencement of this Act, shall be deemed to have acquired a landholder's right in respect of such land.

Saving of rights of persons possessing lands included within extended limits of town or village.

10. (*1*) The extension of the limits of any town or village shall not affect the rights which a person in possession of land included within the extended limits may have acquired prior to such extension under any law for the time being in force.

(*2*) If, under the law applicable to any such land before such extension, the person in possession of the land at the time when the extension was made could by continuous possession for a period of twelve years have acquired a right thereto equivalent to a landholder's right under this Act, any such person or his successor in continuous possession shall, after such period or twelve years' continuous possession computed from the date of original entry into possession, be deemed to have acquired a landholder's right under this Act in respect of such land.

CHAPTER III.

General Provisions in regard to a Landholder's Right.

Loss of landholder's right by abandonment of possession.

11. A landholder's right in respect of any land shall cease if the landholder abandons possession of the land for two years continuously.

Application of person in possession of land for record of declaration that he has landholder's right.

12. Any person who is in possession of any land and asserts that he has acquired a landholder's right in respect of the same, may apply to the Revenue Officer to record in a roll to be kept for this purpose a declaration of the fact of his having acquired such right.

Procedure

13. On receipt of any such application, the Revenue Officer shall cause

public notice thereof to be given in such manner and for such period as the Local Government may by rule prescribe, and, if after inquiry he is satisfied that the applicant has acquired such right, he shall record a declaration to that effect in the said roll and shall furnish the applicant, if he requires it, with a certified copy of such declaration.

of Revenue Officer on receipt of such application.

14. (*1*) If, within five years from the date on which a declaration has been recorded under the last foregoing section, the Revenue Officer is satisfied that it is erroneous, he may cancel it :

Cancellation of such declaration and record.

Provided that no declaration shall be cancelled until notice of the Revenue Officer's proposal to cancel it has been published in such manner and for such period as the Local Government may by rule prescribe, and until all persons claiming an interest in the land shall have had an opportunity of showing cause against the proposal.

(*2*) While any such declaration remains on the roll uncancelled, no fresh declaration inconsistent therewith shall be recorded in the roll.

15. (*1*) Whenever a question arises in any proceeding before a Civil Court as to whether any person has acquired a landholder's right in respect of any land, and it appears that a declaration of the fact of such acquisition has been made and recorded by the Revenue Officer not less than five years before the commencement of such proceeding and is still uncancelled, the Court shall decide in accordance with such declaration.

Duty of Civil Court when questions arise as to original acquisition or loss of landholder's right.

(*2*) Whenever any such question arises in any such proceeding and it appears that no such declaration has been so made, or that, if made, it was made less than five years before the commencement of such proceeding, or that it has been cancelled, and whenever any question arises as to whether a landholder's right, having been acquired, has been subsequently lost, the Court shall refer such question to the Revenue Officer, and shall give judgment in accordance with his decision thereon :

Provided that, where an appeal from the decision of the Revenue Officer on any question so referred lies to a Revenue Officer of a higher grade, the Court shall, on such conditions as to the furnishing of security or otherwise as it thinks fit, defer its judgment so as to allow time for preferring an appeal, and, in the event of a decision being given in appeal different from that given by the Revenue Officer to whom the question was originally referred, shall give judgment in accordance with the decision given in appeal.

CHAPTER IV.

DISPOSAL OF LAND.

Modes of disposal of land at disposal of Government.

16. Land at the disposal of Government may be disposed of—

(*a*) by grant or lease, conferring such interests therein and on such conditions as the Local Government may by rule prescribe;

(*b*) by license of the Revenue Officer.

Power of Local Government to make rules for disposal of such land.

17. (*1*) Subject to the control of the Governor General in Council, the Local Government may make rules for the disposal of land at the disposal of Government.

(*2*) Such rules may provide, amongst other matters, for the following:—

(*a*) the amount or kind of interest to be created in such land by grants or leases and the conditions (if any) subject to which such interest may be conferred;

(*b*) the mode in which, and the Revenue Officers by whom, such grants or leases may be given;

(*c*) the Revenue Officers by whom, the manner in which, and the conditions subject to which licenses to use and occupy land may be given;

(*d*) the rates of revenue to be levied or rent to be reserved in respect of land disposed of by grant or lease or occupied under license, as the case may be; and

(*e*) the cases in which such land may be disposed of revenue-free.

CHAPTER V.

EVICTION FROM AND UNAUTHORIZED POSSESSION AND USE OF STATE LAND.

Liability of possessors of State land to eviction in certain cases.

18. (*1*) Every person who—

(*a*) at the commencement of this Act is in possession of State land in respect whereof he has not then acquired a landholder's right, or

(*b*) after the commencement of this Act enters into possession of such land under a license from the Revenue Officer,

shall, until he acquires a landholder's right in respect of such land, be liable to be evicted therefrom after three months' notice from the Revenue Officer to quit the same:

Provided that every person so evicted shall be entitled to receive from Government such compensation as the Revenue Officer may determine for the

expense of removing and re-erecting elsewhere the buildings (if any) on the land, and for any loss or injury to any crop, garden produce and productive trees planted or grown by him or by previous occupants of the land.

(2) Nothing in this section shall apply to any person holding State land under a grant or lease made by or on behalf of the British Government.

Penalties for unauthorized possession of land.

19. Any person who after the commencement of this Act—

(*a*) enters into possession of any land at the disposal of Government except under a grant or lease from the Government, or under a license from the Revenue Officer, or

(*b*) remains in possession of such land after any such grant, lease or license has been cancelled, or has expired, or has otherwise become void and possession has been demanded on behalf of Government,

shall be liable—

(i) to be summarily evicted therefrom;

(ii) to pay five times the amount of revenue or rent assessable or payable in respect of the land during the period of his unauthorized occupation; and

(iii) to pay such fine as the Revenue Officer may determine as a further penalty for such unauthorized occupation or possession.

Penalties for using land for unauthorized purpose.

20. When the Revenue Officer is satisfied that any State land of which a grant or lease has been made, or in respect of which a license has been given, limited to any specific purpose, has been, or is being used without the permission of the Revenue Officer for any other purpose, the person in possession of the land shall be liable—

(*1*) to pay such revenue or rent, or enhanced rate of revenue or rent, in respect of the land as the Revenue Officer shall determine from the time when the land was first used for such other purpose;

(*2*) to pay such fine as the Revenue Officer may determine as a further penalty for the unauthorized use of the land;

(*3*) to have the grant, lease or license of or for the land cancelled by the Revenue Officer and to be evicted therefrom:

Provided that no final order under this section shall be made until the person in possession of the land has had an opportunity of showing cause against the imposition of any penalty, and that no order shall be enforced until it has been confirmed by the Commissioner of the division.

Procedure for evicting person liable to eviction under Act.

21. (*1*) When any person is liable under this Act to be evicted from State land, the Revenue Officer may issue an order requiring him and any other person (if any) occupying the land to quit the same, and to remove therefrom all property other than Government property within a specified time.

A copy of such order shall be posted up in some conspicuous position on the land or upon a building thereon.

(*2*) If after the time specified in the order any person remains upon or in occupation of the land, the Revenue Officer may, by warrant under his hand, cause such person to be arrested and may commit him to imprisonment in the civil jail for such period, not exceeding thirty days, as the Revenue Officer may consider necessary for the purpose of preventing resistance or obstruction to his order.

(*3*) If any property other than Government property remains on the land after the time specified in the order, the Revenue Officer may cause the same to be removed and sold for the purpose of defraying the cost of its removal, custody and sale; and thereupon the surplus proceeds of the sale (if any) shall be paid to the owner of the property.

(*4*) Nothing shall be deemed to be Government property within the meaning of this section merely by reason of its having been put into or affixed to the soil.

CHAPTER VI.

Assessment of Land-Revenue.

Land liable to land-revenue assessment.

22. All State land shall be liable to be assessed to land-revenue, except—

(*a*) land which at the commencement of this Act belongs to the site of any monastery, pagoda or other sacred building, and which continues to be used for the purpose of such monastery, pagoda or sacred building;

(*b*) land exempt from assessment under the express terms of any grant or lease made or to be made by or on behalf of the British Government, so long as the conditions (if any) subject to which the grant or lease has been or shall be made are fulfilled;

(*c*) plots of land in villages not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings;

(*d*) plots of land in towns not exceeding one-fourth of an acre each in extent and occupied by or appertaining to buildings which are

assessed to one of the taxes specified in section 46, sub-section (*l*), Division (A), clause (*a*), clause (*b*), clause (*c*) or clause (*d*) of the Burma Municipal Act, 1898,[1] or on which a house-cess is levied under section 6 of the Burma District Cesses and Rural Police Act, 1880.[2]

Bur. Act III of 1898. II of 1880.

Assessment and levy of land-revenue by Revenue Officer.

23. The Revenue Officer shall assess and levy land-revenue upon all lands liable to payment thereof according to such rates and in such manner as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

CHAPTER VII.

Recovery of Sums due to Government.

Recovery of money due to Government under Act.

24. All sums of money now due and payable, or which shall hereafter become due and payable, to Government in respect of any land, whether for land-revenue, rent or otherwise, and all fines imposed by a Revenue Officer under this Act, shall be recoverable as if they were arrears of land-revenue under the Burma Land and Revenue Act, 1876.[3]

II of 1876.

Priority of sums due to Government.

25. Every sum due to Government in respect of any land shall be a charge upon the land and shall have priority over every other charge thereon created by mortgage, decree, attachment or otherwise.

Personal liability for sums due to Government.

26. Any sum due to Government in respect of any land shall be due jointly and severally from, and shall be payable by, all persons in possession of the land at the time the sum is demanded and all persons in possession of the land during the period for which the sum is payable.

CHAPTER VIII.

Record of Possession.

Application of Chapter.

27. This Chapter shall apply only to scheduled towns and to such other towns as the Local Government may, by notification, direct.

Roll of town lands to be kept.

28. There shall be kept by the Revenue Officer for every town to which this Chapter applies, a roll of town lands, in which shall be entered the names

[1] Printed, *supra*, p. 501.
[2] Printed, *supra*, p. 70.
[3] Printed, *supra*, p. 12.

of the persons for the time being in possession of all lands within the town, together with such particulars as the Local Government may, by rule, prescribe.

Duty of registering officer on registration of document relating to title to land in towns.

29. Whenever any document affecting the title or right to possession of any land in any such town as aforesaid shall be registered under the Indian Registration Act, 1877,[1] the officer registering the same shall send to the Revenue Officer a true copy of the entries in the indexes, kept under the said Act, relating to such document. III of 1877.

Duty of parties to unregistered document transferring title to lands in towns.

30. Whenever the title or right to possession of any land in any such town as aforesaid shall be transferred otherwise than by a registered document, the transferor and transferee shall give notice to the Revenue Officer of the change in possession within thirty days from the date on which the transferee enters into possession.

Duty of persons acquiring possession of land otherwise than by transfer.

31. Whenever any person acquires possession of land in any such town as aforesaid otherwise than by transfer or assignment from the person previously in possession of such land, he shall, within thirty days from the date on which he enters into possession, give notice to the Revenue Officer of the change in possession and of the right under which he claims possession.

Power of Revenue Officer to hold inquiry in certain cases before altering roll.

32. The Revenue Officer may in any case before altering the roll of town lands, make a summary inquiry into the circumstances of any alleged transfer, devolution of title, or acquisition of possession of any land, and may refuse to enter the name of any person on the roll as being in possession of any land until he shall have been declared by the decree of a competent Civil Court to be entitled to possession thereof.

Penalty for failure to give notice as required by section 30 or 31.

33. Whoever, being bound by section 30 or section 31 to give notice to the Revenue Officer of a change in possession, shall fail to give such notice within the time prescribed therefor, shall be liable to such fine, not exceeding one hundred rupees, as the Revenue Officer may impose.

Power of Revenue Officer to hold inquiry at any time.

34. The Revenue Officer may at any time hold a summary inquiry in order to ascertain who is in fact in possession of any land, and may enter in the roll of town lands the name of the person whom he finds to be in possession.

Presumptive evidence of possession arising from entry in roll.

35. An entry in the roll of town lands of the name of any person as being in possession of any land shall be presumptive evidence that such person was, or is, in possession of the land, as the case may be.

Liability of persons

36. (*1*) The person whose name is for the time being entered in the roll of

[1] Printed, General Acts, Vol. III, p. 41.

town lands as being in possession of any land, shall be liable to pay all revenue, taxes, rent and other Government demands in respect of such land, whether he is in fact in possession of such land or not. entered in roll to pay Government demands.

(2) Nothing in this section shall be taken to exempt from liability any other person who under this Act or under any other enactment for the time being in force may be liable to pay any such revenue, taxes, rent or other demand.

37. Nothing in this Chapter shall apply to land held from the Government on a lease from month to month or under a tenancy determinable at will. Exemption of certain lands.

CHAPTER IX.

MISCELLANEOUS.

38. Every Revenue Officer holding an inquiry or hearing an appeal under this Act shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel them to give evidence, and to make and enforce orders for the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.[1] Power to summon and enforce the attendance of witnesses and production of documents.

XIV of 1882.

39. An appeal shall lie from the orders and decisions of Revenue Officers in respect of matters dealt with under this Act in such cases, to such officers, and subject to such limitations as to time and such other conditions as the Local Government may, by rule, determine. Appeals.

40. Notwithstanding that no appeal may lie to him, the Financial Commissioner may call for and revise the proceedings of any Revenue Officer in any case dealt with under this Act, and may pass such orders thereon, consistent with the provisions of this Act, as he may think fit. Financial Commissioner's powers of revision.

41. No Civil Court shall have jurisdiction to determine— Bar to jurisdiction of Civil Courts.

(*a*) any matter which, under this Act, is to be determined by the Revenue Officer;

(*b*) any claim to any right over land as against the Government.

42. The Financial Commissioner may, subject to the control of the Local Government, make rules prescribing the forms of all rolls, registers, notices and other documents to be used under this Act. Power of Financial Commissioner to make rules concerning forms.

[1] Printed, General Acts, Vol. IV, p. 262.

Power of Local Government to make general rules.

43. In addition to the rules concerning matters in respect of which the Local Government is by section 17 expressly empowered to make rules, the Local Government may, subject to the control of the Governor General in Council, make rules to prescribe—

(*a*) the manner in which, and the period for which, notice of receipt of an application under section 12 shall be given by the Revenue Officer under section 13;

(*b*) the manner in which, and the period for which, notice of the Revenue Officer's proposal to cancel a declaration under section 14 shall be published;

(*c*) the particulars to be entered in the roll of town lands to be kept under section 28;

(*d*) the cases in which, the officers to whom, and the limitations and conditions subject to which, appeals shall lie from orders and decisions of Revenue Officers;

(*e*) the person or persons by whom, and the manner in which, anything required by this Act to be done and not therein specially provided for shall be done; and

(*f*) generally, to carry out the provisions and objects of this Act.

Publication of rules.

44. The power to make rules conferred on the Local Government by section 17, section 28, and section 43, clauses (*c*), (*d*), (*e*) and (*f*) shall be subject to the condition of the rules being made after previous publication and the rules so made shall not take effect until after they have been published in the gazette.

Bar of suits against Revenue Officers.

45. No civil suit shall lie against any Revenue Officer in respect of anything done or purporting to have been done by him in good faith under the provisions of this Act.

Legalization of levy of sums by Government in the past.

46. All sums levied by Government before the commencement of this Act in respect of lands in any town or village shall be deemed to have been lawfully levied, and no civil suit shall lie against the Secretary of State for India in Council, or against any public servant, in respect of any such sum or in respect of anything done in levying and realizing it which might lawfully have been done for the purpose of enforcing a lawful demand.

Repeal of existing enactments relating to subject of Act.

47. On and from the date of the commencement of this Act in any town or village, all enactments, rules and regulations (if any) relating to any of the matters provided for by this Act and then having the force of law shall be repealed.

THE SCHEDULE.

[*See section 4, clause (4).*]

SCHEDULED TOWNS.

Rangoon.	Akyab.
Moulmein.	Bassein.

Prome.

THE BURMA GAMBLING ACT, 1899.

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BURMA ACT No. I OF 1899.[1]

[APPLIES TO LOWER AND UPPER BURMA.]

[*10th March 1899, 1st April, 1899.*]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses, and for the suppression of certain forms of gaming.

Preamble. WHEREAS it is expedient to make provisions for the punishment of public gambling and the keeping of common gaming-houses, and for the suppression of certain forms of gaming. It is hereby enacted as follows:—

Preliminary.

Short title, etc. 1. (*1*) This Act may be called the Burma Gambling Act, 1899: and

(*2*) It extends to the whole of Burma except the Shan States.

Repeal. 2. The Burma Gaming Act, 1884, is hereby repealed; and the Public Gambling Act, 1867, shall from the commencement of this Act cease to be operative in Burma. XVI of 1884. III of 1867.

Interpretation clause. 3. In this Act, unless there is anything repugnant in the subject or context—

"Common gaming-house." (*1*) "Common gaming-house" means any house, enclosure, room, vessel or place, whether public or private, in which—

(*a*) any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room, vessel or place, whether by way of charge for

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1898, Pt. III, p. 116; for Report of the Select Committee, *see ibid*, 1899, Pt. III, p. 13; for Proceedings relating to the Bill, *see ibid*, 1899, Supplement, p. 195.

the use of the instruments of gaming as such, or of the house, enclosure, room, vessel or place, or otherwise howsoever for gaming purposes; or where—

(*b*) the game of *ti* or any other game or pretended game of a like nature is carried on:

"Gaming" and "playing."

(2) The words "gaming" and "playing," with their grammatical variations and cognate expressions, include taking part in the game of *ti* or in any other game or pretended game of a like nature:

"Instruments of gaming."

(3) The expression "instruments of gaming" means and includes—

(*a*) any cards, dice, counters, coins, gaming-tables, gaming-cloths, gaming-boards or other articles devised or actually used for the purpose of gaming;

(*b*) any boxes, receptacles, lists, papers, tickets or forms used for the purpose of the game of *ti* or any other game or pretended game of a like nature.

Act not to apply to games of skill.

4. Nothing in this Act shall be held to apply to any game of mere human skill wherever played.

Arrest without warrant, etc., for offences in Public Places.

Power to arrest without warrant.

5. A police-officer may arrest without warrant any person who in any street or thoroughfare or place to which the public have access, and within the view of such police-officer—

(*a*) solicits or collects stakes for the game of *ti* or any other game or pretended game of a like nature; or

(*b*) plays for money or other valuable hing with any instrument of gaming; or

(*c*) sets birds or animals to fight; or

(*d*) being there present aids and abets such public fighting of birds or animals.

Power to seize instruments of gaming.

And such police-officer may seize all instruments of gaming found in such place or on the persons of those whom he shall so arrest.

Searches of, and Arrests in, Common Gaming-houses, etc.

Power to enter and authorize police to enter and search suspected houses, etc.

6. (1) If the District Magistrate or any Sub-divisional Magistrate or Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government in this behalf, or the District Superintendent of Police,

upon credible information, has reason to believe that any house, enclosure, room, vessel or place is used as a common gaming-house, he may, after recording in writing the substance of such information and the grounds of such belief, either himself do any of the following acts, or by warrant authorize any officer of police not below the rank of sergeant or officer in charge of a police station to—

(*a*) enter, within seven days from the date thereof, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, enclosure, room, vessel or place; and

(*b*) take into custody all persons whom he finds therein, whether they are then actually gaming or not; and

(*c*) seize all instruments of gaming, and all moneys and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and

(*d*) search all parts of the house, enclosure, room, vessel or place, which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and seize and take possession of all instruments of gaming found upon such search.

(*2*) No Magistrate recording the substance of the information and grounds of belief under sub-section (*1*), shall be bound to specify therein the name of any informer.

(*3*) All searches under sub-section (*1*) shall be made in accordance with the provisions of sub-section (*3*) of section 102, and of section 103 of the Code of Criminal Procedure, 1898.[1] V of 1898.

(*4*) When any house, enclosure, room, vessel or place is entered by a police-officer under a warrant issued under sub-section (*1*), he shall, after the execution of such warrant, forthwith submit it to the Magistrate who issued it, or to the nearest Magistrate empowered under clause (*c*) of section 190 of the Code of Criminal Procedure, 1898,[1] together with a report of the proceedings V of 1898 thereunder, and shall together therewith take or send the persons arrest and all articles seized thereunder before such Magistrate:

Provided that, when it is not practicable to produce the persons so arrested before such Magistrate within three hours after their arrest, it shall be lawful for such police-officer to release them on bail on their own recognizances.

[1] Printed Genl. Acts, Vol. VI, p. 380.

Special Rules of Evidence, etc.

Presumption upon instruments of gaming being found in places entered under Act.

7. When any instruments of gaming are found in any house, enclosure, room, vessel or place entered under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be presumed, until the contrary is proved, that such house, enclosure, room, vessel or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any one aiding in the entry.

Magistrate may require any person apprehended to give evidence.

8. It shall be lawful for the Magistrate before whom any persons shall be brought who have been found in any house, enclosure, room, vessel or place entered under the provisions of section 6, to require any such persons to give evidence touching any unlawful gaming in such house, enclosure, room, vessel or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, enclosure, room, vessel or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

Witnesses to be absolved from punishment.

9. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for an offence under this Act and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall thereby be absolved from punishment for any offence under this Act committed by him during such gaming.

Penalties.

Penalty for gaming or setting birds or animals to fight, in public streets.

10. Any person who in any street or thoroughfare, or place to which the public have access—

(*a*) plays for money or other valuable thing with any instrument of gaming; or

(*b*) sets any birds or animals to fight; or

(*c*) being there present aids and abets such public fighting of birds or animals,

shall be liable to a fine not exceeding fifty rupees, or to imprisonment for any term not exceeding one month.

Penalty for playing or being in a gaming-house.

11. Whoever plays in any common gaming-house, or is there present for the purpose of gaming, whether or not actually playing, shall be liable for a first offence to a fine not exceeding one hundred rupees, or to imprisonment for any term not exceeding one month, and for a subsequent offence to a fine

not exceeding two hundred rupees or to imprisonment for any term not exceeding two months.

Penalty for owning or keeping or having charge of a gaming-house.

12. Whoever—

(*a*) being the owner or occupier, or having the use of any house, enclosure, room, vessel or place, opens, keeps or uses the same as a common gaming-house ; or

(*b*) being the owner or occupier of any house, enclosure, room, vessel or place, knowingly permits the same to be opened, used or kept as a common gaming-house ; or

(*c*) has the care or management of, or in any manner assists in conducting the business of any common gaming-house ; or

(*d*) advances or furnishes money for the purpose of gaming with persons frequenting any common gaming-house,

shall be liable for a first offence to a fine not exceeding two hundred rupees or to imprisonment for any term not exceeding three months, and for a subsequent offence to a fine not exceeding four hundred rupees or to imprisonment for any term not exceeding six months.

Penalty on conducting game of *ti* and like games.

13. Whoever—

(*a*) conducts or assists in conducting the game of *ti*, or any other game or pretended game of a like nature, as manager, stake-holder or *daing* ; or

(*b*) is according to the rules of the game or pretended game entitled to receive the surplus proceeds, or any part of the surplus proceeds, of the stakes after deducting the amount payable to the successful player or players ; or

(*c*) promotes the game or pretended game by soliciting or collecting stakes or otherwise,

shall be punished with imprisonment for a term which may for a first offence extend to six months, and for a subsequent offence to two years, or with fine, or with both.

Bar to Prosecutions in certain cases.

Bar to prosecutions in certain cases.

14. No Magistrate shall take cognizance of an offence—

(*a*) under section 10 or section 11 unless a complaint or a report or information in respect thereof has been made or given to him within seven days of the date of the alleged commission of the offence, or

(*b*) under section 12 or section 13 unless a complaint or a report or information in respect thereof has been made or given to him within one month of the date of the alleged commission of the offence.

(*Destruction of Instruments of Gaming and Disposal of Valuables seized. Secs. 15-16. Security for Good Behaviour. Sec. 17.*)

Destruction of Instruments of Gaming and Disposal of Valuables seized.

Convicting Magistrate may order destruction of cards, etc., and forfeiture of valuables, etc., seized.

15. (*1*) On the conviction of any person for an offence under section 11, 12 or 13 committed in any common gaming-house entered under the provisions of section 6, the convicting Magistrate may order any instruments of gaming found therein to be destroyed, and may also order any other articles seized to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any of such articles and the whole or any part of such moneys to be returned to the persons appearing to have been severally thereunto entitled.

(*2*) On the conviction of any person for an offence under clause (*a*) of section 10 or under section 11, 12 or 13, the convicting Magistrate may order all instruments of gaming seized under section 5 to be destroyed or forfeited.

Portion of fine may be paid as rewards.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 10, 11, 12 and 13, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to any person who has contributed in any way to the conviction.

Security for Good Behaviour.

Power to demand security.

17. Whenever a District Magistrate, Sub-divisional Magistrate, or, when he is specially empowered in this behalf by the Local Government, a Magistrate of the first class, receives information that any person within the local limits of his jurisdiction earns his livelihood, wholly or in part, by unlawful gaming or by promoting or assisting in the promotion of unlawful gaming, he may deal with such person as nearly as may be as if the information received about him were of the description mentioned in section 110 of the Code of Criminal Procedure, 1898[1]; and for the purposes of any proceeding under this section the fact that a person earns his livelihood as aforesaid may be proved by evidence of general repute or otherwise.

V of 1898.

[1] Printed General Acts, Vol. VI, p. 380.

BURMA ACT No. II OF 1899.[1]

[APPLIES TO LOWER AND UPPER BURMA.]

[*23rd March, 1899; 10th April, 1899.*]

An Act to amend the Burma Ferries Act, 1898.

WHEREAS it is expedient to amend the Burma Ferries Act, 1898; It is hereby enacted as follows:— Burma Act II of 1898.

Amendment of sections 4 and 6, Burma Act II, 1898.

1. In section 4, clause (*f*), and in section 6 of the said Act, for the words "moneys received by way of compensation or composition" in each section the words and figures "moneys received under section 29 or by way of composition" shall be substituted.

Amendment of section 19, Burma Act II, 1898.

2. In section 19 of the said Act, for the words "moneys received by way of compensation or composition" the words and figures "moneys received under section 29 or by way of composition," and for the words and figures "by sections 28 and 30" the words and figures "under powers conferred by sections 7 and 30," shall be respectively substituted.

Amendment of section 28 (re-numbered section 30), Burma Act II, 1898.

3. (*1*) In section 28 (hereinafter re-numbered so as to become section 30) of the said Act, after the words and figures "or section 27" and before the word "may," the following shall be inserted, namely:—

"and the whole or any portion of the amount realized under section 29."

Re-arrangement and re-numbering of sections 28, 29 and 30, Burma Act II, 1898.

(*2*) The said section 28 shall be removed from its former position and shall be inserted as the section next preceding section 31 of the said Act; and sections 29, 30 and 28 of the said Act as so amended and re-arranged shall be re-numbered as sections 28, 29 and 30, respectively.

BURMA ACT No. III OF 1899.[2]

[*19th March, 1899; 12th April, 1899.*]

An Act to amend the Burma Military Police Act, 1887.

WHEREAS it is expedient to amend the Burma Military Police Act, 1887; It is hereby enacted as follows:— XV of 1887.

Short title.

1. This Act may be called the Burma Military Police Act Amendment Act, 1899.

Amendment of section 3, sub-sections (*5*) and (*6*), Act XV, 1887.

2. For sub-sections (*5*) and (*6*) of section 3 of the Burma Military Police Act, 1887, the following shall be substituted, namely:— XV of 1887.

"(*5*) 'Adjutant' means a person appointed by the Local Government to

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1897, Pt. III, p. 29; for Report of the Select Committee, *see ibid*, 1899, Pt. III, p. 22; for Proceedings in Council, *see ibid*, Supplement, 1897, p. 1237, *ibid*, Supplement, 1899, p. 197.

[2] For Statement of Objects and Reasons, *see* Burma Gazette, 1899, Pt. III, p. 119; for Report of the Select Committee, *see ibid*, 1899, Pt. III, p. 19; for Proceedings in Council, *see ibid*, Supplement, p. 197.

be an Adjutant of Military Police, and in Lower Burma includes a District Superintendent of Police and an Assistant District Superintendent of Police in charge of the police of a district or of a sub-division :

"(*6*) 'Assistant Commandant' means a person appointed by the Local Government to be an Assistant Commandant or an Assistant Adjutant of Military Police, and includes an Assistant District Superintendent of Police not in charge of the police of a district or of a sub-division :

"(*7*) 'Inspector' means an Inspector of Civil Police who has been appointed by the Inspector-General of Police to be also an Inspector of Military Police :

"(*8*) The expressions 'reason to believe,' 'criminal force,' 'assault,' 'fraudulently' and 'voluntarily causing hurt' have the meanings assigned to them respectively in the Indian Penal Code[1]."

(XLV of 1860.

3. (*1*) For the words "or second-in-command" in sub-section (*1*) of section 4 of the said Act, the following shall be substituted, namely :— Amendment of section 4, sub-section (*1*), Act XV, 1887.

"Adjutant or Assistant Commandant."

(*2*) To the same sub-section the following shall be added, namely :—

"and he shall be asked the questions in the said schedule set out, and in answering such questions he shall be bound to state the truth."

4. For section 5 of the said Act, the following shall be substituted, namely :— Amendment of section 5, Act XV, 1887.

"**5.** (*1*) There shall be six classes of military police-officers, namely :— Classes and grades of military police-officers.

(i) subahdars,
(ii) jamadars,
(iii) havildars,
(iv) naiks,
(v) lance-naiks,
(vi) sepoys,

and such grades in each class as the Local Government may direct.

"(*2*) The expression 'superior officer' in this Act includes :—

(*a*) in relation to sepoy, any lance-naik, naik, havildar, jamadar or subahdar;

(*b*) in relation to a lance-naik, any lance-naik of longer service in that class, and any naik, havildar, jamadar or subahdar;

(*c*) in relation to a naik, any naik of longer service in that class, and any havildar, jamadar or subahdar ;

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

(*d*) in relation to a havildar, any havildar of a higher grade, or of longer service as havildar of the same grade, and any jamadar or subahdar;

(*e*) in relation to a jamadar, any jamadar of a higher grade, or of longer service as jamadar of the same grade, and any subahdar;

(*f*) in relation to a subahdar, any subahdar of a higher grade, or of longer service as subahdar of the same grade; and

(*g*) in relation to any military police-officer, any Inspector, Assistant Commandant, Adjutant, Commandant or Deputy Commissioner."

Amendment of section 8, Act XV, 1887.

5. In section 8 of the said Act, the words "class of sepoy" shall be substituted for the words "rank of constable."

Amendment of section 9, sub-section (*1*), Act XV, 1887.

6. (*1*) In sub-section (*1*) of section 9 of the said Act, for the words "or Second-in-command or an officer" the following shall be substituted, namely :—

"Adjutant or Assistant Commandant or an Inspector, or a subahdar or jamadar."

(*2*) In the same sub-section for the words "head-quarters of a district during the absence of the Deputy Commissioner, Commandant and Second-in-command" the words "head-quarters of a district or battalion during the absence of the Commandant, Adjutant and Assistant Commandant" shall be substituted.

(*3*) In the same sub-section the words "of the class of sepoy" shall be inserted between the words "officer" and "who".

(*4*) For sub-clause (*b*) of the same sub-section the following sub-clauses shall be substituted, namely :—

"(*b*) extra guards, pickets or patrols;

(*c*) confinement to lines for any period not exceeding thirty days with punishment drill not exceeding fifteen days and thereafter fatigue duty."

Amendment of section 11, Act XV, 1887.

7. In section 11 of the said Act, for the words "police-officer not below the rank of Commandant" the words "Commandant, Adjutant or Assistant Commandant" shall be substituted.

Amendment of sections 12 and 13, Act XV, 1887.

8. In sections 12 and 13 of the said Act, for the words "or Second-in-command," wherever they occur, the words "Adjutant or Assistant Commandant" shall be substituted.

Amendment of the sche-

9. (*1*) In the schedule of the said Act, for the words "through the Inspector, if any, to whom you may be subordinate, to a Commandant of

Military Police or the Deputy Commissioner of the district in which you may be serving" the following shall be substituted, namely :— dule, Act XV, 1887.

"through the officer to whom you may be subordinate, to a Commandant or Adjutant of Military Police."

(2) To the schedule of the said Act, after the words "previous to your discharge" the following shall be added, namely :—

"You will now be asked two questions, and your answers will be recorded. If your answers are hereafter found to be false in any particular, you will, if enrolled in the Burma Military Police, be liable, upon conviction, to imprisonment for three years and to fine under section 193 of the Indian Penal Code.[1] XLV of 1860.

Question (1)—What is your name, your father's name, your caste, and native town or village and district ?

Answer—

Question (2)—Have you ever previously been in the service of Her Majesty the Queen, Empress of India, or of the Government of India?

If so, when, in what capacity or capacities, and when and under what circumstances did your service cease?

Answer—

(*Signature of the police-officer to be enrolled.*)

The answers of the said

were recorded by me, and the whole was translated to him and was signed by him, after I had ascertained that he fully understood the purport thereof."

(3) In the attestation clause of the schedule of the said Act, for the words "or Second-in-command" the following shall be substituted, namely :—

"Adjutant or Assistant Commandant."

THE RANGOON POLICE ACT, 1899.

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ACT No. IV OF 1899.[1]

[*27th March, 1899*; *13th April, 1899.*]

An Act to provide for the better regulation of the Police in Rangoon Town.

Preamble.

WHEREAS it is expedient to exclude Rangoon Town for certain purposes from the general police-district of Burma and to make provision for the regu-

[1] For Statement of Objects and Reasons, *see* Burma Gazette, 1899, Pt. III, p. 10; for Report of the Select Committee, *see ibid*, Pt. III, p. 23; for Proceedings in Council, *see ibid*, Supplement, pp. 197 and 341.

lation of the police within the limits so excluded; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Rangoon Police Act, 1899;

(*2*) It extends to Rangoon Town; and

(*3*) It shall come into force on such day as the Local Government may, by notification, appoint in this behalf.

Repeal.

III of 1888. V of 1861.

2. (*1*) Except as provided in the Police Act, 1888,[1] and in section 3 of this Act, the Police Act, 1861,[2] and Act VIII of 1895,[3] shall cease to take effect within the limits of Rangoon Town.

XIII of 1889.

(*2*) Subject to the provisions of section 3 of this Act and notwithstanding anything contained in section 12 of the Cantonments Act, 1889, the police-force employed in the Cantonment of Rangoon shall, for the purposes of this Act, be deemed to be part of the police-establishment constituted under this Act.

Saving of Act III, 1888.

(*3*) Nothing contained in this Act shall be construed to affect the provisions of the Police Act, 1888.

III of 1888. V of 1861.

Act not to apply to Burma provincial police unless serving under Commissioner of Police.

3. (*1*) Notwithstanding anything in this Act, the Police Act, 1861, (as amended by subsequent Acts,) shall apply to all military and civil police-officers of the general police-district of Burma, stationed or employed within the limits of Rangoon Town, for the purposes of the organization, regulation and control of such police and of the discharge by them, within such limits, of police-functions connected with the administration of any parts of Burma beyond such limits.

(*2*) Subject to any orders which the Local Government may make in this behalf, any such police-officer may discharge any functions of a police-officer in Rangoon Town and shall, while so discharging any functions not provided for in sub-section (*1*), be deemed to be a member of the police-establishment constituted under this Act, and be vested with the powers, functions and privileges and be subject to the liabilities of a police-officer appointed under this Act.

Effect of alteration of limits of Rangoon Town.

4. In the event of the limits of Rangoon Town being altered at any time hereafter,—

(*a*) this Act shall be deemed to extend to any area thereby included within such limits from the date of such inclusion; and

(*b*) this Act shall cease to be operative within, and the Police Act, 1861, (as amended by subsequent Acts,) shall extend to any

V of 1861.

[1] Printed General Acts, Vol. V, p. 199.
[2] Printed General Acts, Vol. I, p. 379.
[3] Printed General Acts, Vol. VI, p. 227.

area thereby excluded from Rangoon Town from the date of such exclusion,

unless it be otherwise expressly provided in the notification or enactment altering such limits.

Interpretation-clause.

5. In this Act, unless there is anything repugnant in the subject or context,—

"Cattle."

(*1*) "Cattle" includes, (besides horned cattle,) elephants, camels, horses, asses, mules, sheep, goats and swine:

"Police."

(*2*) "Police" includes—

(*a*) all persons appointed under this Act; and

(*b*) any member of any other police-establishment so far as may be necessary for the purposes of sub-section (*2*) of section 3 of this Act, or of section 3 of the Police Act, 1888.[1] III of 1888.

'Shop."

(*3*) "Shop" includes dwelling-house and warehouse or other place of business, or place where business is transacted:

"Vehicle."

(*4*) "Vehicle" includes every description of wheeled conveyance except perambulators and other conveyances designed for the carriage of children.

PART II.

Constitution, Regulation and Powers of the Police.

Superintendence in the Local Government.

6. The superintendence of the police in Rangoon Town shall vest in, and subject to the general control of the Government of India, shall be exercised by, the Local Government; and, except as authorized under the provisions of this Act, no person, officer or Court shall be empowered by the Local Government to appoint, supersede or control any police-functionary.

Appointment of superior officers.

7. The Local Government shall appoint a Commissioner of Police for Rangoon Town, and in him shall be vested the administration of the police of that town subject to the direct control of the Local Government.

The Local Government may appoint so many Superintendents of Police a. shall be sanctioned by the Government of India.

Powers of Commissioner of Police.

8. The Commissioner of Police—

(*1*) shall have the powers of a Magistrate so far as may be necessary for the purposes of preserving the peace, preventing crime, and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate and so far as may be necessary for the performance of the duties assigned to the Commissioner of Police by this Act;

[1] Printed General Acts, Vol. V, p. 199

(*2*) shall perform the duties and exercise the powers of the Deputy Commissioner under the Lower Burma Towns Act, 1892[1]; IX of 1892.

(*3*) shall likewise exercise the full powers conferred on the District Superintendent of Police by any law or regulation in force in Rangoon Town;

(*4*) may, when the holder of a license granted under the Indian Arms Act, 1878,[2] is within the limits of Rangoon Town, cancel or suspend such license, if, for reasons to be recorded in writing, he deems it necessary to do so for the security of the public peace; and XI of 1878.

(*5*) may, whenever sanction is necessary under section 29 of the Indian Arms Act, 1878, for the institution of proceedings in respect of an offence under section 19, clause (*f*) of the said Act, give such sanction, notwithstanding anything contained in such sections. XI of 1878.

General constitution of the Rangoon force.

9. The Rangoon police-force shall be a separate police-establishment and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the Local Government, subject to the control of the Government of India.

Control and rules for government of the Rangoon force.

10. The police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, with the previous sanction of the Local Government, frame rules for the government of the force and the regulation of its duties.

Commissioner of Police to appoint inferior police-officers.

11. All police-officers, other than those mentioned in section 7, shall, subject to such rules as the Local Government shall from time to time sanction, be appointed by the Commissioner of Police; and every police-officer so appointed shall receive, on his appointment, a certificate in the form annexed to this Act under the seal of the Commissioner of Police.

Vesting of powers, functions and privileges of a police-officer.

12. Every police-officer appointed under section 7, shall, by virtue of his appointment, and every police-officer holding a certificate under section 11 shall, by virtue of such certificate, be vested with the powers, functions and privileges of a police-officer.

Such certificate or appointment shall cease to have effect when the person named in it ceases for any reason to be a police officer.

Responsibilities, etc., of police-officer.

13. A police-officer shall not, by reason of being suspended from office, cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance,

[1] Printed, *supra*, p. 232.
[2] Printed General Acts, Vol. III, p. 243.

under suspension.

but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities as if he had not been suspended.

Police-officers not to engage in other employment.

14. No police-officer shall engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted in writing by the Commissioner of Police to do so.

Police-officer always on duty.

15. Every police-officer shall, for the purposes of this Act, be considered to be always on duty, and may at any time be employed as a police-officer in any part of Rangoon Town.

Duties of a police-officer.

16. It shall be the duty of every police-officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, and to take lawful measures for—

(*1*) collecting and communicating intelligence affecting, and otherwise preserving, the public peace;

(*2*) preventing the commission of offences and public nuisances;

(*3*) detecting and bringing offenders to justice;

(*4*) apprehending persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists;

(*5*) regulating processions and assemblies in public places;

(*6*) regulating the traffic upon public thoroughfares and removing obstructions therefrom;

(*7*) preserving order and decorum in public places, in places of public resort and in assemblies for public amusements;

(*8*) protecting unclaimed or lost property, and finding the owners thereof;

(*9*) taking charge of and impounding stray animals;

(*10*) inspecting weights and measures and instruments for weighing;

(*11*) assisting in the protection of life and property at fires;

(*12*) protecting public property from loss or injury;

(*13*) attending the Criminal Courts and keeping order therein;

(*14*) escorting and guarding prisoners to and from prisons and places of detention; and

(*15*) executing warrants of arrest, and serving summonses and notices whenever specially directed by a Magistrate to do so.

Police-officers to give two months' notice of resignation.

17. No police-officer appointed under section 11 shall be at liberty to withdraw himself from the duties of his office, unless expressly allowed to do so by the Commissioner of Police, nor without the leave of the Commissioner of Police to resign his office unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

On ceasing to be a police-officer every person to give up certificate and equipment.

18. Every person, who ceases to be a police-officer appointed under section 11, shall forthwith deliver up to the Commissioner of Police or to a Superintendent of Police his certificate and the clothing, accoutrements, appointments and other articles which have been supplied to him for the execution of his duty.

Penalty for refusing to do so.

If he neglects or refuses to do so, he shall be liable, on conviction, to imprisonment for a term which may extend to six months, or to a fine not exceeding two hundred rupees, or to both.

Punishments for breaches of discipline.

19. (*1*) The Commissioner of Police may, subject to any rules or orders which the Local Government may make or give in this behalf, at any time reduce any police-officer, appointed under section 11, whom he shall think remiss or negligent in the discharge of his duty, or unfit for the same, or

may, subject to any such rules or orders as aforesaid, award any one or more of the following punishments to any such police-officer, namely :—

(*a*) fine to any amount not exceeding one month's pay ;

(*b*) deprivation of good conduct pay ;

(*c*) removal from any post of distinction or special emolument ;

(*d*) confinement to quarters for a term not exceeding fifteen days, with or without punishment-drill, extra guards, fatigue or other duty.

(*2*) A Superintendent of Police may, subject to any such rules or orders as aforesaid, award to any police-officer below the rank of Inspector any of the punishments specified in clause (*d*) of sub-section (*1*), for any minor offence not requiring any other punishment.

Penalties for offences against this Act by a police officer.

20. Any police-officer who—

(*a*) shall engage in any employment or office contrary to the provisions of section 14 ;

(*b*) shall withdraw himself from the duties of his office contrary to the provisions of section 17 ;

(*c*) being absent on leave shall fail, without reasonable cause, to report himself for duty on the expiration of such leave ;

(*d*) shall be guilty of any violation of duty, or wilful breach or neglect of any rule or lawful order made by competent authority ;

(*e*) shall be guilty of cowardice ; or

(*f*) shall offer any unwarrantable personal violence to any person in his custody,

shall be liable, on conviction, to imprisonment for a term which may extend to three months, or to fine not exceeding three months' pay, or to both.

Fund for rewards to members of the police-force.

21. All pay which shall be forfeited by, and fines inflicted on, members of the police-force by virtue of the powers herein contained shall be paid into a fund to be called the "Rangoon Police Reward Fund," which fund shall be applied for the purpose of rewarding officers, appointed under section 11, for extra or special services.

This fund shall be administered by the Commissioner of Police.

PART III.

Special Provisions for Additional Police and Disturbed Areas.

Additional police-officers employed at the cost of individuals.

22. It shall be lawful for the Commissioner of Police, on the application of any person showing the necessity thereof, to depute or appoint any additional number of police-officers to keep the peace at any place within his jurisdiction. Such force shall be exclusively under the orders of the Commissioner of Police and shall be at the charge of the person making the application :

Provided that it shall be lawful for the person on whose application such deputation or appointment shall have been made, on giving one month's notice in writing to the Commissioner of Police, to require that the police-officers so deputed or appointed shall be withdrawn ; and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment of additional force in the neighbourhood of railway and other works.

23. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on or be in operation in any part of Rangoon Town, and it shall appear to the Commissioner of Police that the employment of an additional police-force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory or concern, it shall be lawful for the Commissioner of Police, with the consent of the Local Government, to appoint or depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders, from time to time, upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering punitive police in

24. (*1*) It shall be lawful for the Local Government, by proclamation to be notified in the gazette and in such other manner, if any, as the Local Government shall direct, to declare that any area has been found to be in a dis-

turbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police. disturbed or dangerous areas.

(*2*) It shall thereupon be lawful for the Commissioner of Police, with the sanction of the Local Government, to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

(*3*) Subject to the provisions of sub-section (*5*) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

(*4*) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid, liable to bear the same, and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.

(*5*) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(*6*) Every proclamation issued under sub-section (*1*) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case think fit to direct.

Explanation.—For the purposes of this and the next succeeding section, "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from occupiers in such area, notwithstanding that they do not actually reside therein.

25. (*1*) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt, or loss of or damage to property has been caused by or has ensued from the misconduct of the inhabitants of such area, or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct; to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the District Magistrate. Awarding compensation to sufferers from misconduct of inhabitants.

(2) It shall thereupon be lawful for the District Magistrate, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

(*a*) declare the persons to whom injury has been caused by, or has ensued from, such misconduct;

(*b*) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and

(*c*) assess the proportion in which the same shall be paid by the inhabitants of such area, other than the applicant, who shall not have been exempted from the liability under the next succeeding sub-section:

Provided that the Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within such area and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

(4) Every declaration or assessment made or order passed by the District Magistrate under sub-section (2) shall be subject to revision by the Local Government, but save as aforesaid shall be final.

(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

Recovery of moneys payable under sections 22, 23, 24 and 25.

26. (1) All moneys payable under sections 22, 23, 24 and 25 shall be recoverable by the District Magistrate as a fine, or by suit in any competent Court.

(2) All moneys paid or recovered under sections 22, 23 and 24 shall, subject to such orders and directions as the Local Government may give, be applied to the maintenance of the police-force.

(3) All moneys paid or recovered under section 25 shall be paid by the District Magistrate to the persons to whom and in the proportions in which the same are payable under that section.

Special Police-officers.

Special Police-officers.

27. The Commissioner of Police may of his own authority appoint special police-officers to assist the police-force on any temporary emergency.

(Part III.—Special Provisions for Additional Police and Disturbed Areas. Secs. 28-29. Chapter IV.—Provisions for the Preservation of Peace and Order and for other Purposes. Secs. 30-31.)

28. Every special police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police. Power of special police-officers.

29. If any person, being appointed a special police-officer under section 27, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey any lawful order or direction, he shall be liable, on conviction, to a fine not exceeding fifty rupees for every such neglect or refusal or disobedience. Punishment for refusing to serve.

PART IV.

PROVISIONS FOR THE PRESERVATION OF PEACE AND ORDER AND FOR OTHER PURPOSES.

Provisions against Thieves and Vagabonds.

30. (*a*) Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, and who is unable to give a satisfactory account of his reasons for being so armed; Apprehension and punishment of reputed thieves and others.

(*b*) any reputed thief found between sunset and sunrise lying or loitering in any bazar, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

(*c*) any person found between sunset and sunrise having his face covered or otherwise disguised and who is unable to give a satisfactory account of himself;

(*d*) any person found between sunset and sunrise, within the precincts of any dwelling-house or other building whatsoever, or on board any vessel, without being able satisfactorily to account for his presence therein; and

(*e*) any person having in his possession, without lawful excuse, any implement of house-breaking,

may be taken into custody by any police-officer without a warrant, and shall be liable to imprisonment which may extend to three months.

31. Whoever has in his possession or conveys in any manner anything which may reasonably be suspected to be stolen property as defined in section 410 of the Indian Penal Code,[1] shall, if he fails to account satisfactorily for his Penalty for possession of property

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[1] See now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

suspected to be stolen.

possession of the same, be punished with imprisonment which may extend to three months, or with fine, or with both.

Powers of Entry and Inspection.

Power for police to enter pawnshops, licensed lodging-houses and places of resort of loose or disorderly characters.

32. It shall be lawful for every police-officer, for any of the purposes mentioned in section 16, without a warrant to enter and inspect any pawnshop, licensed lodging-house, public-house or bar, and any place of resort of loose or disorderly characters.

Powers of police-officer deputed to enter and seize false weights and measures.

33. (*1*) It shall be lawful for any police-officer, generally or specially deputed to that duty by the Commissioner of Police, to enter without a warrant any shop for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein; and

to seize any weight, measure or instrument for weighing which he may have reason to believe is false or, within the limits of the Rangoon Municipality, not in accordance with bye-laws made by the Rangoon Municipal Committee for prescribing the standard weights and measures to be used within the municipality.

(*2*) The police-officer making a seizure under sub-section (*1*) shall forthwith give information of such seizure to the Magistrate having jurisdiction; and,

if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed.

Admission of police to places of public resort.

34. Police-officers on duty shall have free admission to all places of public resort and assemblies for public amusement while open to any of the public.

Additional Powers to Arrest.

Apprehension of offenders by private persons, if name, etc., unknown.

35. Whoever—

(*a*) commits an offence on or with respect to the person or property of another; or

(*b*) in committing any offence described in this Act, injures or damages the person or property of another,

may, if his name and address be unknown, be apprehended by the person injured or by any person using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him;

and may be detained until he gives his name and address, and satisfies such

person that the name and address so given are correct, or until he can be delivered into the custody of a police-officer.

Punishment for resisting lawful arrest by private persons.

36. If any person, lawfully apprehended under the last preceding section, shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Regulation of Crowds, Traffic, etc.

Regulation of public assemblies and processions, and licensing of the same.

37. (*1*) The Commissioner of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, streets and thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

(*2*) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in his judgment if uncontrolled, be likely to cause a breach of the peace, require, by general or special notice, that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

(*3*) On such application being made, he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place, and otherwise giving effect to this section.

Music and torches in streets.

(*4*) He may also regulate the extent to which music, torches or other naked lights may be used in the streets on the occasions of festivals and ceremonies.

Powers with regard to assemblies or processions violating conditions of license.

38. (*1*) Any Magistrate, or the Commissioner of Police or a Superintendent or Inspector of Police, or any police-officer in charge of a station, may stop any procession which violates the conditions of a license granted under the last preceding section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

(*2*) Any procession or assembly which neglects or refuses to obey any order given under sub-section (*1*) shall be deemed to be an unlawful assembly within the meaning of section 141 of the Indian Penal Code.[1]

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Power to keep order on public roads, etc.

39. Any police-officer may, subject to the general or special orders of the Commissioner of Police, give all proper orders and directions to any persons for the purpose of—

(*a*) keeping order on the public roads, streets, thoroughfares and landing-places, and at all other places of public resort; and

[1] *See* now the revised edition of the Act as modified up to July, 1899, published by the Legislative Department.

(*b*) preventing obstructions on the occasions of assemblies and processions on the public roads and streets, or in the neighbourhood of places of worship during the times of public worship, and in any case when any road, street, thoroughfare or landing-place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under the last three sections.

40. Every person opposing or not obeying the orders issued under the last three preceding sections, or violating the conditions of any license granted by the Commissioner of Police for the use of music, torches or naked lights, or for the conduct of assemblies and processions shall be liable to a fine not exceeding two hundred rupees.

Punishment for certain offences on roads and public places :—

41. Whoever, within such limits as shall be, from time to time, defined by the Commissioner of Police, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable to a fine which shall not exceed fifty rupees, or to imprisonment not exceeding eight days, or to both :—

Driving elephant or wild animal :

(*1*) Whoever drives, rides or leads any elephant or wild animal, without the permission of the Commissioner of Police :

Driving a vehicle without sufficient lights :

(*2*) Whoever drives or otherwise propels any vehicle of any description, between half an hour after sunset and half an hour before sunrise, without sufficient and proper lights :

Riding or driving otherwise than on left side of road :

(*3*) Whoever, without reasonable cause, rides, drives or otherwise propels any vehicle or cattle otherwise than on the left or near side of the road so as to cause any obstruction, inconvenience, risk, danger or damage to any person :

Furious riding or driving :

(*4*) Whoever rides or drives or otherwise propels any vehicle or cattle recklessly or furiously :

Exposing horses for sale, training animals, and cleaning or repairing vehicles :

(*5*) Whoever, to the obstruction, inconvenience, risk, danger or damage of any person—

(*a*) exposes for show, hire or sale any horse or other animal ; or

(*b*) cleans or dresses any horse or other animal, or cleans any carriage or other conveyance ; or

(*c*) makes or repairs any part of any cart or carriage except in cases of accident where repairs on the spot are necessary ; or

(*d*) trains or breaks any horse or other animal,

except in such places and at such times as may be allowed by the Commissioner of Police :

Negligence

(*6*) Whoever, by negligence or ill-usage in driving cattle, causes any

mischief to be done by such cattle, or in anywise misbehaves himself in the driving, management or care of such cattle so as to cause mischief or obstruction: — In driving cattle:

(*7*) Whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control: — Leaving cart, etc., without control:

(*8*) Whoever, causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; — Obstructing thoroughfare by vehicle or animal:

or leaves any cart, carriage or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare;

or leads thereon more cattle than two at once:

(*9*) Whoever leads or rides any horse or other animal, or draws, drives or otherwise propels any vehicle, upon any foot-way, or fastens any animal so that it can stand across or on any foot-way: — Obstructing foot-way by vehicle or animal:

(*10*) Whoever causes obstruction or inconvenience to any person by placing any goods on the streets or foot-ways, whether for sale or otherwise, longer than is necessary for loading or unloading, except as permitted under clause (*q*) of section 142 of the Burma Municipal Act, 1898[1]: — Exposing goods:

Bur. Act III of 1898.

(*11*) Whoever beats a drum, tom-tom or gong, or blows a horn, shell or trumpet, or sounds any brass or other metal instrument or utensil to the annoyance of any person, except at such times and places as shall be, from time to time, allowed by the Commissioner of Police: — Beating drums, etc.

(*12*) Whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street for the purpose of fixing lamps or illuminations unless authorized to do so by the Rangoon Municipal Committee: — Illuminations:

(*13*) Whoever bathes or washes himself in any public place not set apart for such purpose: — Bathing in public:

(*14*) Whoever is found drunk or riotous or incapable of taking care of himself: — Being drunk and incapable:

(*15*) Whoever wilfully and indecently exposes his person or any offensive deformity or disease, or eases himself in a place not set apart for the purpose: — Indecent exposure of person:

(*16*) Whoever begs or applies for alms, or seeks for or obtains alms by means of any false statement or pretences: — Begging:

(*17*) Whoever neglects to fence in or protect any excavation, well or other dangerous place or structure over which he has control. — Neglecting to fence dangerous places.

[1] Printed, *supra*, p. 539.

Penalty for lighting bonfires, sending up fire-balloons, or discharging guns or fire-works.

42. Whoever, within such times and limits as shall be, from time to time, defined by the Commissioner of Police,—

(*a*) sets fire to or burns any straw or other matter to the risk or damage of any person ; or

(*b*) sends up any fire-balloon ; or

(*c*) in or near any public street, road or thoroughfare lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work,

shall be liable to a fine which shall not exceed fifty rupees, or to imprisonment for a term not exceeding eight days, or to both.

Penalty for affixing bills.

43. Whoever, without the consent of the owner or occupier, affixes or authorizes the affixing of any poster, advertisement or notice against or upon any building, wall, fence or property, or writes upon, defaces or marks any such building, wall, fence or property with chalk or paint or in any way whatsoever ; and

whoever does the like upon any public property of any description without the permission of the person in charge of such property,

shall be liable to a fine which shall not exceed fifty rupees, or to imprisonment for a term not exceeding eight days, or to both.

License fees.

44. For every license granted by the Commissioner of Police under this Act, there shall be levied a fee of two rupees.

Protection of Unclaimed and Lost Property.

Unclaimed property.

45. It shall be the duty of every police-officer to take charge of all unclaimed property and furnish an inventory thereof to the Commissioner of Police.

Commissioner of Police may proclaim property.

46. The Commissioner of Police may proclaim the property and issue a proclamation specifying the articles of which it consists and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Power to sell perishable property.

47. If the person entitled to the possession of such property is unknown or absent and the property is subject to a speedy and natural decay, or the Commissioner of Police is of opinion that its sale would be for the benefit of the owner, the Commissioner of Police may at any time direct it to be sold and shall hold the nett proceeds of such sale in deposit until the expiration of six months from the date of the proclamation under section 46.

Disposal of property should no claimant appear.

48. (*1*) If no person shall within the period allowed claim such property, it may, if not already sold, be sold under the orders of the Commissioner of Police.

(*2*) The sale-proceeds of property sold under the provisions of sub-section (*1*) or of section 47, to which no claim has been established, shall be at the disposal of Government.

Intestate's property under two hundred rupees in value.

49. (*1*) Whenever any person dies intestate in Rangoon Town leaving moveable property therein, the total value of which is under two hundred rupees, and the property is, in the absence of any person entitled thereto, taken charge of by the police for the purpose of sale custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration having been taken out, to any person claiming to be entitled to the whole or any part thereof:

Provided that he shall be satisfied of the title of the claimant.

Provided also that the Commissioner of Police may, before making any order under this section, take security for the due administration and distribution of the property.

(*2*) Nothing contained in sub-section (*1*) shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

Destruction of Stray Dogs.

Power to destroy stray dogs.

50. The Commissioner of Police may by public notice appoint, from time to time, certain periods within which any dogs found straying may be destroyed, and ten days after the issue of such notice any dog found straying, without a collar or other mark of ownership, beyond the enclosure of the house of his owner may be destroyed by such person and in such manner as the Commissioner of Police may direct.

PART V.

LIMITATION OF PROCEEDINGS.

Limitation of prosecutions.

51. All criminal proceedings against any person which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general police-powers hereby given, shall be commenced

within three months after the act complained of shall have been committed, and not otherwise.

Notice of civil action.

52. No suit shall be instituted in any Civil Court against any person for anything done or intended to be done under the provisions of, or under the general police-powers given by, this Act, unless notice in writing of such suit and of the cause thereof shall have been given to the defendant or to the Commissioner of Police one month at least before the commencement of such suit :

Provided always that no suit shall in any case lie where such person shall have been prosecuted criminally for the same act.

Sanction of Commissioner of Police required for prosecution for certain offences under Act.

53. No Court shall take cognizance of an offence punishable under section 20, clause (*a*), (*b*), (*c*) or (*e*) or section 29 without the previous sanction of the Commissioner of Police.

Plea that act was done under warrant.

54. When any action or prosecution shall be brought, or any proceedings held, against any police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate.

Such plea shall be proved by the production of the warrant directing the act and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary unless the Court shall see reason to doubt its being genuine :

Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section.

PART VI.

Power to make Rules.

Power of Local Government to make rules.

55. The Local Government may, from time to time, by notification, make rules consistent with this Act—

(*a*) to regulate the procedure to be followed by Magistrates and police-officers in the discharge of any duty imposed upon them by or under this Act;

(*b*) to prescribe the time, manner and conditions within and under which claims for compensation under section 25 are to be made the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon ; and

(*c*) generally for giving effect to the provisions of this Act.

FORM.

(*Section 11.*)

A. B. has been appointed a member of the Rangoon Police-force under Burma Act, of 1899, and is vested with the powers, functions and privileges of a police-officer.

Dated

Commissioner of Police,
Rangoon.

PART V.

THE SHAN STATES, KACHIN HILLS AND CHIN HILLS.

A.—Notifications affecting the Shan States—

(1) Notifications declaring what constitutes the Shan States.
(2) Notifications extending Laws to, or making Laws for, the Shan States.
(3) Notifications conferring powers in respect to the Shan States.
(4) Notifications making Rules and Orders under Laws in force in the Shan States.

B.—Notifications relating to the Kachin Hills.

C.—Notifications relating to the Chin Hills.

THE SHAN STATES.

(1) Notifications declaring what constitute the Shan States.

Notification rectifying the Boundaries of the State of Momeik.

No. 11, dated the 1st October, 1889.—In exercise of the powers conferred by section 3, clause (*a*), and section 8, sub-section (*3*), of the Upper Burma Laws Act, 1886,[1] the Chief Commissioner, with the previous sanction of the Governor General in Council, is pleased to direct that the circles or kayaings of Twinngè and Daungbôngnywa, comprising the local area included in the boundaries specified below, shall, with effect from the date of this notification, cease to be a part of the territories constituting the Shan State of Momeik, and shall be added to, and form a part of, the Ruby Mines District :—

Boundaries.

North.—The Shwelaungchaung, from its mouth to a point about ten miles eastward.
South.—The Udaungchaung, from its mouth to the Yègyotaungdan, approximately fifteen miles from the Irrawaddy River.
East.—From the Shwelaungchaung, a line running southward along the ridges known as Lèthadaung and Yègyotaungdan, to the eastern limit of the southern boundary on the Udaungchaung.
West.—The Irrawaddy River.

[Burma Gazette, 1889, Pt. I, p. 430.]

Declaration as to what are the Shan States.

Notification No. 10, dated the 11th July, 1895.—In exercise of the power conferred by section 8, sub-section (*3*), of the Upper Burma Laws Act (XX of 1886),[1] and with the previous sanction of the Governor General in Council, and in supersession of all previous notifications on the subject, the Chief Commissioner is pleased to declare that, for the purposes of the said Act, the territories mentioned below constitute the Shan States :—

(1) The Northern Shan States (*under the supervision of the Superintendent, Northern Shan States*).

Tawng Peng (Taungbaing).
North Hsinwi (Theinni).
South Hsinwi (Theinni).
Hsipaw (Thibaw) with its dependencies, Möng Lông (Mainglông), Hsum Hsai (Thônzè), and Möng Lüng (Maingiôn).
East and West Mang Lün (Maing Lun) with their dependencies, including Mawhpa, Hoklap, Môt Hai, Ngekting, Manghseng and Mangpat.
All territories east of the Salween river, not mentioned elsewhere in this notification, which on the 27th November, 1885, owed allegiance directly or indirectly to the King of Burma, and which still form part of Upper Burma.

[1] *See* now s. 10 (*3*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 268.

(2) THE SOUTHERN SHAN STATES (*under the supervision of the Superintendent and Political Officer, Southern Shan States*).

Möng Nawng (Maingnaung).
Kehsi Mānsām (Kyithi-Bansan).
Möng Nai (Monè) with its dependency Kēng Tawng (Kyaingtaung).
Möngsit (Maingseik).
Möng Pan (Maingpan) with its trans-Salween dependencies Mönghta (Maingta), Möng Hāng (Mainghan), Möng Kyawt (Maingsut), and Möngtun (Maingtun).
Hsahtūng (Thatôn) including Tam Hpak (Tabet), and Mānglön (Letmaing).
Wānyin (Banyin).
Nawng Wawn (Naungmun).
Lawk Sawk (Yatsauk) including Möng Pīng (Maingpyin).
Samkā (Saga) with its dependency Pōngmū.
Sakoi (Sagwe).
Yawng Hwe (Nyaungywe) with its dependencies Lai Hsak (Letthet), Angleywā (Inleywa), Kyawkhtap (Kyaukta), and Hsīkip (Thigyit).
Loi Lōng (Lwèlôn).
Möng Kung (Maingkaing).
Lai Hka (Lègya)
Möng Pawn (Maingpun).
Kēngkām (Kyaingkan).
Mawkmai (Maukmē) with its trans-Salween dependencies Mèhsakun (Mesakôn) and Möng Maü (Maingmaw).
Honōng (Honôn) including Hai Lōng (Helôn).
Nam Hkōk (Naukôk).
Möng Pai (Mobyè).
Möng Hsu (Maingshu).
Mongsāng (Maingsin).
Kēngtön (Kyungtun).
Kēngtūng (Kyaingtôn) and its dependencies, including Möngpu (Maingpu), Möngshat (Maing That), Hsin, Mawng (Thinbaung), Hsin Yawt (Thinyut).
Kēngchēng (Kyaingchaing).[1]

(3) THE MYELAT (*under the supervision of the Superintendent and Political Officer, Southern Shan States*).

Ye Ngan (Ywangan).
Pwela (Pwehla).
Mawsön (Bawzaing).
Nam Hkōm (Nankôn).
Pangmi (Pinhmi).
Loimaw (Lwèmaw).
Namtōk (Nantôk).
Mawnāng (Pawnin).
Kyawkku Hsiwān (Kyaukkuleywa).
Pāngtara (Pindaya).
Kyöng (Kyôn).
Hsa Möng Hkām (Thamakan) including Makwē (Magwe).
Loi An (Lwèan)
Tawnglā (Taunghla) and
Mēnghti (Myinmati).
Loi Ai (Lwè-e).
Nam Hkai (Nankè).
Maw (Baw).

(4) STATES UNDER THE SUPERVISION OF THE COMMISSIONER, NORTHERN [*Mandalay*] DIVISION.

Möng Mit [Momeik with its dependency Möng Lang (Mohlaing).]
Hkāmti Lōng (Kantigyi).

(5) STATES UNDER THE SUPERVISION OF THE COMMISSIONER, CENTRAL [*Sagaing*] DIVISION.

Hsawnghsūp (Thaungthut).
Singkalīng Hkāmti (Zingalein Kanti).

[Burma Gazette, 1895, Pt. I, p. 262.]

Eastern boundary of the Shan State of Kentung.

Notification No. 12, dated the 21st May, 1896.—In exercise of the power conferred by section 8, sub-section (3), of the Upper Burma Laws Act, XX of 1886,[2] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased, in continuation of Notification No. 10, dated the 11th July, 1895, and in supersession of so much thereof as refers to Kēngchēng (Kyaingchaing), to declare that the Thalweg of the Mekong river from the mouth of the Nam Huok northwards as far as the Chinese frontier shall constitute the eastern boundary of the Shan State of Kēngtūng for the purpose of the said Act, and that all lands and territories situate within Her Majesty's possessions between the Thalweg of the Mekong river as abovementioned and the existing frontier of the said Shan State of Kēngtūng shall henceforward form part of that State.

[Burma Gazette, 1896, Pt. I, p. 244.]

[1] Superseded so far as this State is concerned, by Notification No. 12, dated 21st May, 1896, *infra*.
[2] See now s. 10 (3) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 263.

(2) Notifications extending Laws to, or making Laws for, the Shan States.

Shan States Laws and Criminal Justice Order, 1895.

Notification No. 11, dated the 11th July, 1895.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886)[1] and sections 4 and 5 of the Shan States Act (XV of 1888),[2] and with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma is pleased to make the following orders with respect to the extension of laws to, and the administration of criminal justice in, the Shan States :—

Preliminary.

Short title, application and commencement.

1. (*1*) These orders may be called the [3][Shan States Laws and Criminal Justice Order, 1895.]

[4][(*2*) It shall apply to all the Shan States except the State of Hkāmti Lōng and the State of Mōng Mit, with its dependency Mōng Lāng, and, except so far as section 4 and the second schedule are concerned, the Shan States situated east of the Salween river.]

(*3*) It shall come into force at once.

Supersession of previous notifications.

2. (*1*) The notifications of the Chief Commissioner of Burma, specified in the first schedule hereto annexed, are hereby superseded;

(*2*) But all notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed, and orders, rules and appointments made under the enactments extended by any of the said notifications, shall, so far as may be practicable, be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under those enactments as extended by this Order.

Definitions.

3. In this order—

(*1*) "Shan States" has the meaning defined for it by section 2 of the Shan States Act, 1888 :

(*2*) "Northern Shan States," "Southern Shan States" and "the Myelat" mean the States specified under these descriptions respectively in the notification of the Chief Commissioner of Burma in the Political Department, No. 10 of this date :

(*3*) "Superintendent" means—

(*a*) for the Southern Shan States, the Superintendent and Political Officer for the time being, Southern Shan States ;

(*b*) for the Northern Shan States, the Superintendent for the time being, Northern Shan States ;

(*c*) for the Myelat, the Superintendent and Political Officer for the time being, Southern Shan States ;

(*d*) for the States of Hsawnghsūp and Sīngkalīng Hkāmti, the Deputy Commissioner for the time being, Upper Chindwin District ; and

(*4*) "Assistant Superintendent" means any officer appointed to be an Assistant Superintendent, and includes any person whom the [Lieutenant-Governor][5] may appoint to discharge for any local area all or any of the functions of an Assistant Superintendent.

Laws.

Extension of enactments.

4. The enactments specified in the second schedule hereto annexed are hereby extended to the Shan States to the extent specified in the third column of the said schedule.

Criminal Justice.

Administration of criminal justice.

[6]**5.** For the purposes of the administration of criminal justice in all cases exclusively triable by a Magistrate or Judge appointed by the Local Government, the Indian Penal Code (Act XLV of 1860), the Whipping Act, 1864 (VI of 1864), the Prisoners Act, 1871 (V of 1871), the Indian Oaths Act, 1873 (X of 1873), and the Code of Criminal Procedure

[1] *See* now s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 263.

[2] *See* now ss. 10 (*1*) and 12 of Act XIII of 1898.

[3] Substituted for the original words, by Notification No. 17, dated 7th August, 1895, printed, *infra*, p. 611.

[4] Sub-s. (*2*) was substituted for the original sub-section, by Notification No. 42, dated 11th December, 1895, printed, *infra*, p. 611.

[5] The words "Lieutenant-Governor" were substituted for the words "Chief Commissioner" in sub-s. (*4*) of s. 3 and s. 5 was substituted for the original section, by Notification No. 29, dated 19th December, 1898, printed, *infra*, p. 612.

(2) NOTIFICATIONS EXTENDING LAWS TO, OR MAKING LAWS FOR, THE SHAN STATES—*contd.*

1898 (Act V of 1898), are hereby extended to the Shan States, subject, in the case of the Whipping Act, 1864, to the modification referred to in section 4, sub-section (3), clause (b), of the Burma Laws Act, 1898 (XIII of 1898), and, in that of the Code of Criminal Procedure, 1898 (hereinafter referred to as "the Code"), to the modifications specified in the third schedule hereto annexed.

The following classes of cases shall be exclusively triable by Magistrates or Judges appointed by the Local Government:—

(a) in the Myelat and in the civil stations of Taunggyi and Lashio—all cases;

(b) in the other Shan States (excluding the civil stations above named)—all cases in which an European or American or any servant of the Government is concerned either as complainant or accused; cases under the Indian Penal Code in which a British subject who is not a native of any Shan State is concerned either as complainant or accused; and cases triable under any other Act or Regulation for the time being in force in the Shan States or any portion thereof, unless the contrary is expressly provided.

6. The period of limitation for criminal appeals shall be as follows:— Limitation of criminal appeals.

To the [1][Lieutenant-Governor] from a sentence of death passed by a Superintendent.	Seven days from the date of the sentence.
To the [1][Lieutenant-Governor] from any other sentence or from a judgment of acquittal.	Sixty days from the date of the sentence or judgment appealed against.
To any Court other than the [1][Lieutenant-Governor] from any sentence against which an appeal lies.	Thirty days from the date of the sentence or order appealed against.

General.

7. For the purpose of facilitating the application of the enactments hereby extended any Magistrate or Court may construe any provision therein with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the Magistrate or Court. Construction of enactment extended.

THE FIRST SCHEDULE.

NOTIFICATIONS SUPERSEDED.

Foreign Department Notification No. 1, dated the 4th March, 1889.
Foreign Department Notification No. 4, dated the 30th May, 1889.
Foreign Department Notification No. 6, dated the 1st August, 1889.
Foreign Department Notification No. 13, dated the 28th November, 1889.
Foreign Department Notification No. 14, dated the 28th November, 1889.
Foreign Department Notification No. 16, dated the 28th November, 1889.
Foreign Department Notification No. 2, dated the 26th February, 1891.
General Department Notification No. 159, dated the 27th May, 1889.
Political Department Notification No. 3, dated the 5th May, 1892.
Political Department Notification No. 8, dated the 14th July 1892.
Political Department Notification No 9, dated the 14th July, 1892.
Political Department Notification No. 10, dated the 14th July, 1892.
Revenue Department Notification No. 163, dated the 3rd December, 1888.
Revenue Department Notification No. 177, dated the 23rd October, 1890.
General Department Notification No. 267, dated the 5th November, 1890.
Judicial Department Notification No. 182, dated the 5th May, 1891.

[1] The words "Lieutenant-Governor" were substituted for the words "Chief Commissioner," by Notification No. 29, dated 19th December, 1898, printed, *infra*, p. 612.

(2) Notifications extending Laws to, or making Laws for, the Shan States—*contd.*

THE SECOND SCHEDULE.

First Part.

Enactments extended to the Shan States generally.

Number and year.	Subject.	Extent to which enactments are extended.
	Bengal Regulation.	
III of 1818 . . .	State Prisoners . .	So much as is in force in any part of Upper Burma at this date.
	Acts of the Governor General in Council.	
XVIII of 1850 . .	Protection of Judicial Officers.	So much as is in force in any part of Upper Burma at this date.
XXXIV of 1850 . .	State Prisoners . .	Ditto.
III of 1858 . . .	State Prisoners . .	Ditto.
V of 1861 . . .	Police	Ditto.
V of 1869 (as amended by Act XII of 1894).	Articles of War . .	Ditto.
II of 1874 (as amended by Acts I of 1879, IX of 1881 and II of 1890).	Administrator-General .	Ditto.
V of 1875 . . .	Unattested Sepoys .	Ditto.
XXI of 1879 . . .	Foreign Jurisdiction and Extradition.	[1][Ss. 1 & 3 & Chapters IV and V.]
XV of 1887 . . .	Military Police . .	The whole, except sub-sections (2) and (3) of section 1 and section 2.
XII of 1891 . . .	Repealing and Amending Act.	So far as it may be applicable.
[2][V of 1896 . . .	The Foreign Jurisdiction and Extradition Act, 1896.	So much as is in force in any part of Upper Burma at this date.]
	Regulation under 33 Vict., Cap. 3.	
VI of 1887 (as amended by [4][Regulation] VIII of 1890).	Forests	So much as is in force in any part of Upper Burma at this date.

Second Part.

Enactment extended to the Shan States, except those on the West of the Irrawaddy River.

Number and year.	Subject.	Extent to which enactment is extended.
	Act of the Governor General in Council.	
XV of 1872 (as amended by Act VI of 1886).	Indian Christian Marriage.	The whole (except Part VI).

[1] Substituted for the original words and figures, by Notification No. 20, dated 23rd August, 1898, printed, *infra*, p. 612.

[2] The entry relating to Act V was inserted by *ibid.*

[3] *See* now the Upper Burma Forest Regulation, 1898 (V of 1898) (printed, *supra*, p. 430), by which Regulation VI of 1887 was repealed in Upper Burma.

[4] "Regulation" was substituted for "Act," by Notification No. 17, dated 7th August, 1895, printed, *infra*, [illegible]

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

THE THIRD SCHEDULE.

MODIFICATIONS SUBJECT TO WHICH THE CODE IS TO EXTEND TO THE SHAN STATES.

"High Court" [section 4, clause (j)].

I.—Except in reference to proceedings against European British subjects or persons jointly charged with European British subjects, the expression "High Court" shall mean the [1][Lieutenant-Governor] of Burma.

Courts of Session (sections 7, 9 and 193, and Chapter XXIII).

II.—(*1*) (1) The Northern Shan States, (2) the Southern Shan States, (3) the Myelat, and (4) the States of Hsawnghsūp and Sīngkaling Hkāmtī, shall each be a district and a sessions division.

(*2*) The Superintendent shall be the District Magistrate; the Court of the District Magistrate shall be the Court of Session for the sessions division; and the District Magistrate shall be the Judge of that Court.

(*3*) As Judge of the Court of Session the District Magistrate may take cognizance of any offence as a Court of original jurisdiction without the accused person being committed to him by a Magistrate; and when so taking cognizance of an offence shall, subject to the provisions of this notification, follow the procedure prescribed for the trial of warrant cases by Magistrates.

(*4*) A trial before a Court of Session shall be without jury or aid of assessors.

Powers of Assistant Superintendents (sections 12, 30 and 34).

III.—Every Assistant Superintendent shall be a Magistrate of the first class with power to try such offences and to pass such sentences as a District Magistrate may be empowered to try, and, when so empowered, may pass under sections 30 and 34 respectively of the Code.

Conferment of Magisterial powers on police-officers (section 14).

IV.—Notwithstanding anything in Act V of 1861, or in any other enactment for the time being in force, the Local Government may confer on any police-officer, not below the rank of Inspector, all or any of the powers conferred or conferable by or under the Code on any Magistrate in regard to particular cases, or to a particular class or particular classes of cases, or to cases generally.

Justice of the Peace (section 22).

V.—With reference to sections 46 and 47 of the Lower Burma Courts Act, 1889, every Assistant Superintendent being a European British subject shall be a Justice of the Peace within and for the Shan States.

Whipping (section 32).

VI.—(*1*) A Magistrate of any class may pass a sentence of whipping.

(*2*) A Magistrate of the second class may pass a sentence of whipping without being specially empowered in that behalf by the Local Government.

(*3*) A Magistrate of the third class shall not pass a sentence of whipping unless he is specially empowered in that behalf by the Local Government.

Powers of Magistrates (sections 36 and 37).

VII.—(*1*) Magistrates described in the first column of the following table shall have the powers severally specified against them in the second column thereof without being further empowered in that behalf:—

Magistrate.	Powers.
1	2
Magistrates of the first class	To require security for good behaviour, section 110.
	To make orders as to local nuisances, section 133.
Magistrates of the first or second class	To make orders prohibiting repetition of nuisances, section 143.
	To make orders under section 144.
	To entertain complaints, section [2][190] (*a*).
	To receive police-reports, section [2][190] (*b*).
	To entertain cases without complaint, section [2][190] (*c*).
Magistrates of the first class who are also Assistant Superintendents.	To hear appeals from Magistrates of the second or third class, section 407.
	To call for records, section 435.

[1] The words "Lieutenant-Governor" were substituted for the words "Chief Commissioner," by Notification No. 29, dated the 19th December, 1898, printed, *infra*, p. 612.

[2] The figures "190" were substituted for the figures "191," by Notification No. 13, dated the 29th June, 1898, printed, *infra*, p. 611.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

(2) Every Assistant Superintendent shall have all the ordinary powers of a Sub-Divisional Magistrate within such area as the Local Government may fix.

Powers to certain police-officers to act under section 55.

VIII.—In any police-station any police-officer may exercise the powers conferred by section 55 on an officer in charge of a police-station.

Detention at certain police-stations (sections 57 and 61).

IX.—(1) Notwithstanding anything in section 57 or section 61, an officer in charge of any police-station may detain a person arrested without warrant so long as under all the circumstances of the case is reasonable.

(2) But when the officer of his own authority detains any such person in custody for a longer period than twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, he shall state in the report prescribed in section 62 his reasons for prolonging the detention of the person, and, where the detention extends beyond three days, shall submit further reports of the reasons therefor at such intervals as the Magistrate to whom the report under section 62 was submitted may by general or special order direct.

Tender of pardon (section 337).

X.—A Superintendent or Assistant Superintendent tendering a pardon to an accomplice under section 337 may, notwithstanding anything in that section, try the case himself.

Recording of evidence in cases tried by Magistrates of the second and third classes (Chapter XXV).

XI.—Notwithstanding anything in the Code, the Local Government may from time to time make rules with respect to the record to be made in cases tried by Magistrates of the second or third class and as to the disposal of the record.

Appeal (Chapter XXXI).

XII.—(1) Subject to the provisions of clause XIII of this schedule, an appeal shall lie—

(a) from a judgment or order of a Second or third class Magistrate in the Myelat, to the Assistant Superintendent for the Myelat;

(b) from a judgment or order of any Assistant Superintendent or any Magistrate (other than one of the second or third class in the Myelat), to the Superintendent; and

(c) from a judgment or order of any Superintendent, to the [Lieutenant-Governor].[1]

(2) Any person convicted by an Assistant Superintendent, when the sentence is subject to confirmation by the Superintendent, may appeal to the [Lieutenant-Governor][1]; but the appeal shall not be presented until the case has been disposed of by the Superintendent.

Restrictions on appeal (sections 413 and 414).

XIII.—Notwithstanding anything in this schedule or in the Code, an appeal shall not lie in any case in which a Superintendent or Assistant Superintendent passes a sentence of imprisonment for a term not exceeding six months, or of fine not exceeding Rs 500, or of whipping, or of all or any of those punishments combined.

Notice of appeal (section 422).

XIV.—The Superintendent is hereby appointed to be the officer to whom the Appellate Court shall cause notice to be given of the time and place at which such appeal will be heard.

Enhancement of punishment on appeal (section 423).

XV.—In any case in which an appeal lies, the Appellate Court may enhance any punishment which has been awarded:

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

Revision (sections 435—438).

XVI.—The Superintendent may, in any case in which he has himself called for, or an Assistant Superintendent has forwarded to him, the record of a proceeding before a Magistrate of the second or of the third class, pass such order in the case as he thinks fit:

Provided that he shall not pass a severer sentence for the offence which in his opinion the accused has committed than might have been passed for such offence by the Magistrate who tried the case, and that no order shall be made to the prejudice of the accused unless he has had an opportunity of showing cause against it.

Conduct of prosecutions (section 495).

XVII.—Notwithstanding anything in section 495, a Court may allow any police-officer to conduct a prosecution.

[1] These words were substituted for the words "Chief Commissioner" by Notification No. 29, dated 19th December, 1898, printed, *infra*, p. 612.

(2) Notifications extending Laws to, or making Laws for, the Shan States- contd.

XVIII.—Any Superintendent may withdraw from any Magistrate subordinate to him such classes of cases as he may think proper. Superintendent may withdraw cases (section 528).

XIX.—Notwithstanding anything in the Code, a finding, sentence or order shall not be reversed or altered on appeal or revision on account of any irregularity of procedure unless the irregularity has occasioned a failure of justice. Orders not reversible on technical grounds alone (section 537).

XX.—Rules under section [1][554,] clause (*c*), may regulate the following among other matters, namely :— Fees for processes, copies and inspection of records (section 554).

(*a*) the fees to be paid for processes ; and

(*b*) the fees to be paid for copies and inspection of records.

XXI.—Nothing in this notification with respect to procedure in inquiries or trials, or with respect to sentences or appeals therefrom, or the enhancement or execution thereof shall be construed to affect the Code in its application to European British subjects. Saving of provisions relating to European British subjects.

[Burma Gazette, 1895, Pt. I, p. 262.]

Amendments in the Shan States Laws and Criminal Justice Order, 1895.

No. 17 (Errata), dated the 7th August, 1895.— In Political Department Notification No. 11, dated the 11th July, 1895, *for* the words and figures "Shan States Laws and Criminal Justice Order, 1894," *read* "Shan States Laws and Criminal Justice Order, 1895."

In the second Schedule annexed to the Shan States Laws and Criminal Justice Order, 1895, *for* the words and figures "Act VIII of 1890" *read* "Regulation VIII of 1890."

In Political Department Notification No 12, dated the 11th July, 1895, for the figures "1894" *read* "1895."

[Burma Gazette, 1895, Pt. I, p. 345.]

No. 42, dated the 11th December, 1895.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886)[2] and sections 4 and 5 of the Shan States Act (XV of 1888),[3] and with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma is pleased to make the following orders in modification of the Shan States Laws and Criminal Justice Order, 1895.

For sub-section (2) of section 1 of the said order, the following shall be substituted, namely :—

[Incorporated in Notification No. 11, dated the 11th July, 1895, printed, *supra*, p. 606.]

[Burma Gazette, 1895, Pt. I, p. 542.]

No. 13, dated 29th June, 1898.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886 (XX of 1886),[2] and of sections 4 and 5 of the Shan States Act, 1888 (XV of 1888),[3] the Lieutenant-Governor of Burma is pleased, with the previous sanction of the Governor General in Council, to make the following amendments on, and with effect from, the first day of July, 1898, in the Shan States Laws and Criminal Justice Order, 1895, published under Notification No. 11, dated the 11th July, 1895, at page 262 of the Burma Gazette, 1895, Pt. I :—

[4] (*1*) *In the second sentence of clause* (*b*) *of section 5, for the words "Code of Criminal Procedure (Act X of 1882)" the words "Code of Criminal Procedure, 1898 (Act V of 1898)," shall be substituted.*

(*2*) In the Third Schedule, paragraph 7, in the second column of the Statement, in clause 1, for the figures "191" wherever they occur, the figures "190" shall be substituted.

[1] The figures "554" were substituted for the figures "553," by Notification No. 13, dated the 29th June, 1898, printed on this page.

[2] *See* now s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 263.

[3] *See* now ss. 10 (*1*) and 12 of Act XIII of 1898.

[4] Now obsolete as a new section 5 has since been added to the order, *see* p. 606, *supra*.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

(3) In the same schedule, paragraph 20, for the figures "553" the figures "554" shall be substituted.

[*See* Burma Gazette, 1898, Pt. I, p. 305.]

No. 29, dated 19th December, 1898.—In exercise of the powers conferred by sections 10 and 12 of the Burma Laws Act, 1898 (XIII of 1898), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to make the following amendments in the Shan States Laws and Criminal Justice Order, 1895, as published under Notification No. 11, dated the 11th July, 1895, and amended by subsequent notifications :—

(1) In sub-section (*4*) of section 3, section 6 and the Third Schedule, for the words "Chief Commissioner" wherever they occur, the words "Lieutenant-Governor" shall be substituted.

(2) For section 5 the following shall be substituted, namely :—

(*Vide supra*, p. 606.)

[Burma Gazette, 1898, Pt. I, p. 585.]

Modification of the Customary Law of all the Shan States, except the Myelat, as to capital sentences.

No. 10, dated the 5th September, 1889.—In exercise of the power conferred by section 4, sub-section (*1*), clause (*d*), of the Shan States Act, 1888,[1] the Chief Commissioner is pleased to make the following orders modifying the customary law of all the Shan States, except the State known as the Myelat, where criminal jurisdiction is vested only in the Magistrates and Judges appointed by the Government :—

1. No capital sentence shall be executed except by the explicit order of the Chief of the State in which the offence, in respect of which the sentence is passed, was committed.

2. In any case in which the accused is liable on conviction to capital punishment, the official conducting the trial shall examine the witnesses for the prosecution and for the defence (if any) in the presence of the accused, shall give the accused an opportunity of defending himself, and shall record a proceeding embodying the finding and sentence, and the reasons therefor.

Burma Gazette, 1889, Pt. I, p. 385.]

Modification of Customary Law of certain of the Shan States as to offences and punishments.

No. 11, dated the 19th November, 1890.—In exercise of the power conferred by section 4, sub-section (*1*), clause (*d*) of the Shan States Act, 1888,[1] the Chief Commissioner is pleased to direct that the customary law of all Shan States which are under the charge of the Superintendent of the Shan States and the Superintendent of the Northern Shan States shall be modified to the extent and in the manner indicated in the following rules. These rules do not apply to the Myelat, in which the Indian Penal Code and the Code of Criminal Procedure are in force :—

(*a*) *Rules regarding Offences and Punishments.*

1. The punishments which may be inflicted are—

(*i*) death ; (*ii*) imprisonment ; (*iii*) whipping ; (*iv*) fine ; (*v*) confiscation of property.

The punishment of death or confiscation of property shall be inflicted only on persons convicted of rebellion against the British Government or against the Chief of the State, or of wilful murder.

[1] *See* now ss. 10 (*1*) and 12 of Act XIII of 1898, *supra*, p. 263.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

2. When a person wilfully and maliciously kills another, the crime is murder. Persons convicted of murder shall be punished with death or imprisonment for life or any shorter period, and shall also be liable to fine.

When a person kills another without lawful excuse, but on grave provocation, or intending to cause him hurt, but without the intention of causing his death, the crime is not murder. Such person shall be punished with imprisonment for any period, or with fine, or with both.

3. Attempt to commit murder shall be punished with imprisonment up to seven years or with fine, or with whipping.

4. Persons convicted of dacoity or robbery, or of harbouring dacoits or robbers, shall be punished with imprisonment up to seven years, or with fine, or with whipping, or with any two or more of these punishments. If murder is committed by robbers or dacoits in the commission of the robbery or dacoity, all the persons concerned in the robbery or dacoity shall be liable to be punished for murder.

5. Wilfully causing hurt to any person shall be punished with fine which may extend to Rs. 200; the amount of the fine imposed shall be paid to the injured person.

6. Rape shall be punished with imprisonment up to seven years, or with fine up to Rs. 300, or with whipping, or with any two or more of these punishments.

7. Petty theft or receiving stolen property shall be punished with whipping, and with fine up to twice the value of the stolen property. If the property is not recovered, the person whose property was stolen shall receive the whole or part of the fine as compensation.

8. Adultery shall be punished with fine up to Rs. 300. The fine shall be paid to the husband of the woman with whom the adultery was committed.

9. Attempts to commit offence shall be punished with a penalty not exceeding half the penalty for the offence.

10. In all cases not provided for in these rules the customary law of the Shan States shall be followed: Provided that the punishment of death shall not be inflicted except for the offences specified in these rules.

(b) Rules of Procedure.

1. Criminal cases shall be tried by the Chief of the State, or by such officers as he may appoint to try criminal cases. The order of appointment shall be in the annexed form.

2. The Chief of the State may impose any punishment authorized by law. The punishments which any other officer may inflict shall be determined by the Chief, and shall be specified in the order of his appointment.

3. The Chief alone shall have power to inflict the punishment of death. In cases tried by other officers in which any person is sentenced to death, the sentence shall not be carried out until confirmed by the Chief of the State.

4. Any person sentenced for an offence may appeal to the Chief of the State.

5. Criminal trials shall be held in the presence of the accused. All evidence shall be given on oath.

6. At every trial the complainant and his witnesses shall be examined in the presence of the accused and the accused shall be allowed to ask them questions. When the complainant and his witnesses have been examined, the accused shall be called upon for his defence, and, if he desires to call witnesses, they shall be called and examined.

7. The Chief of the State and all officers empowered by him to try cases shall keep a record of the cases tried by them and of the sentence passed in each case.

8. In ordinary cases the Magistrate shall record—

(I) nature of offence;
(II) date of commission;
(III) date of complaint or report;
(IV) name of complainant (if any);
(V) name and residence of accused;
(VI) the orders passed.

9. In more important cases, where the accused is liable to death, to imprisonment for more than one year, or to fine exceeding Rs. 250, the Magistrate shall also record, in

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

addition to the first five points noted in the last paragraph,—

(VII) if the case relates to loss of or damage to property, the value of the property concerned ;

(VIII) the plea of the accused and his examination (if any) ;

(IX) the names of the witnesses for the prosecution ;

(X) the names of the witnesses (if any) for the defence ;

(XI) the finding, and, in case of conviction, a brief statement of the reasons therefor ;

(XII) the sentence or final order ;

(XIII) date of sentence or final order.

10. Accused persons shall be tried as soon as possible and shall not be kept in custody for a long time without trial.

11. Women, old men and sick persons shall not be whipped. No whipping in excess of thirty stripes shall be inflicted.

12. Persons sentenced to imprisonment shall be confined in such suitable place as the Chief of the State may appoint for this purpose. In special cases, when a long term of imprisonment has been awarded and it is important to prevent the prisoner's escape, the Superintendent of the Shan States or the Superintendent of the Northern Shan States may, * * * *[1] direct the removal of the prisoner to a jail in Burma.

13. Persons sentenced to death shall be shot or hanged. Bodies shall not be crucified in any case.

Order of appointment.[2]

———— —of— ————

is empowered to try criminal cases and to inflict the undernoted punishments :—

(*Seal or Signature of Chief.*)

[*See* Burma Gazette, 1890, Pt. 1, p. 553.]

Administration of Möng Mit.

No. 6, dated 19th May, 1892.—In exercise of the powers conferred by section 4 of the Shan States Act (XV of 1888),[3] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct—

(I) that the Shan State of Möng Mit (Momeik), with its dependency Mönglăng (Mohlaing) shall, until further orders, be temporarily administered by the Deputy Commissioner of the Ruby Mines District as if it were a sub-division of that district ;

(II) that, for the purposes of such administration, it shall be divided into three townships to be called respectively the Momeik, the Mohlaing, and the Kodaung townships ;

(III) that, during such administration, the Deputy Commissioner of the Ruby Mines District and the Sub-Divisional Officer of Momeik shall exercise and perform within the said State, and the Myooks of Momeik, Mohlaing and Kodaung shall exercise and perform within the said townships, respectively, the jurisdiction, powers and duties ordinarily exercised and performed by Deputy Commissioners and Sub-Divisional Officers and by Township Officers respectively, and

(IV) that any further jurisdiction, power or duty incident to the operation of any enactment in force in the said State, shall, during such administration, be exercised or performed by the authority by whom it would be exercised and performed if the said State were a sub-division of the Ruby Mines District.

[Burma Gazette, 1892, Pt. I, p. 295.]

[1] The words "with the sanction of the Chief Commissioner" were repealed by Notification No. 31, dated the 22nd November, 1897, *infra*, p. 617.

[2] *See* Rule I, under head (b), on preceding page.

[3] *See* now s. 12 of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 264.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

Collection of Revenue in certain circles in North Hsinwi.

No. 3, dated the 12th February, 1895, as modified by Political Department Notification No. 33, dated the 18th November, 1895. [a] Under the provisions of section 4, sub-section (*1*), clause (*b*), of the Shan States Act, 1888,[1] the Chief Commissioner, with the previous sanction of the Governor General in Council, is pleased to issue the following orders defining the powers and regulating the procedure of the officers appointed in this Department[2] Notification No. 2, dated the 12th February, 1895, to undertake the collection of revenue in certain circles within the Shan State of North Hsinwi :—

(*1*) The Superintendent, North Shan States, with the sanction of the Chief Commissioner, shall fix the rates at which revenue shall be levied in each circle.

(*2*) The Superintendent shall assess the revenue payable by the inhabitants of each circle and shall notify to the local officials the amount to be paid by each village.

(*3*) The Superintendent shall have the same powers as those heretofore possessed by the Chief of the North Hsinwi State in collecting and enforcing payment of revenue in each of the circles specified in the Notification cited above.

(*4*) The Assistant Political Officer, North Hsinwi, shall, subject to the control of the Superintendent, exercise the powers conferred on the Superintendent by clause (*3*) of this order.

[Burma Gazette, 1895, Pt. I, p. 56.]

Extension of the Kachin Hill Tribes Regulation, 1895 (I of 1895), to the Northern Shan States.

No. 34, dated the 20th November, 1895.—In exercise of the powers conferred by section 8, sub-section (1), of the Upper Burma Laws Act (XX of 1886),[3] and section 5 of the Shan States Act (XV of 1888),[4] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend to the Northern Shan States (as defined in this Department[5] Notification No. 10, dated the 11th July, 1895) the Kachin Hill Tribes Regulation (I of 1895), subject to the following modifications :—

The Superintendent, Northern Shan States, shall be deemed to be the Deputy Commissioner, and the Chief Commissioner the High Court, for the purposes of the Code of Criminal Procedure.

[*See* Burma Gazette, 1895, Pt. I, p. 508.]

Extension of Kachin Hill Tribes Regulation, 1895 (I of 1895), to Hill Tribes in North Hsinwi.

No. 35, dated the 20th November, 1895.—In exercise of the powers conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895),[6] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation—

(i) shall extend to all the hill tracts in the State of North Hsinwi ;

(ii) and shall apply to the hill-tribe in those tracts known as the Kachins.

[*See* Burma Gazette, 1895, Pt. I, p. 509.]

Extension of the Kachin Hill Tribes Regulation, 1895 (I of 1895), to the Hill Tracts of the State of Möng Mit.

No. 38, dated the 22nd November, 1895.—In exercise of the power conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895),[6] and with the previous

[1] *See* now s. 12 (*1*) (*b*) of Act XIII of 1898, *supra*, p. 264.
[2] Printed, *infra*, p. 619.
[3] *See* now s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 263.
[4] *See* now s. 1 (*1*) of Act XIII of 1898.
[5] Printed, *supra*, p. 604.
[6] Printed, *supra*, p. 381.
[a] Printed, Burma Gazette, 1895, Pt. I, p. 508.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation—

(i) shall extend to all the hill tracts in the State of Möng Mit with its dependency Möng Läng ; and
(ii) shall apply to the undermentioned hill-tribes in those tracts :—
Kachins and Palaungs.

[*See* Burma Gazette, 1895, Pt. I, p. 518.]

Extension of certain Acts to the Station of Taunggyi in the State of Yawng Hwe.

No. 43, dated the 16th December, 1895, as modified by Political Department Notification No. 13, dated 28th May, 1896.[*] —In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886),[1] and section 5 of the Shan States Act (XV of 1888),[2] and with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma is pleased to extend so much of[3] Act III of 1867 (*an Act to provide for the punishment of public gambling and the keeping of common gaming-houses*), the Cattle-trespass Act (I of 1871), the Excise Act (XII of 1896), and the Burma Gaming Act (XVI of 1884), as respectively amended by subsequent enactments as is in force in any part of Upper Burma at the date of this Notification, to the Civil Station of Taunggyi in the State of Yawng Hwe.

[Burma Gazette, 1895, Pt. I, p. 550.]

Extension of the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887 (IX of 1887), to the Shan States.

No. *2, dated the 20th January, 1896.*—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886),[1] and section 5 of the Shan States Act (XV of 1888),[2] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend to the Shan States the Upper Burma Frontier Crossing and Disturbed Districts Regulation (IX of 1887),[4] subject to the following modifications, namely, that for the purposes of the said Regulation the Superintendent of the Southern Shan States and the Superintendent of the Northern Shan States shall each, within the local limits of his jurisdiction, be deemed to be the Commissioner of the division, and every Assistant Superintendent of the Shan States shall, within the like limits, be deemed to be the Magistrate of the district.

[*See* Burma Gazette, 1896, Pt. I, p. 35.]

Extension of section 2 (1) (c) of the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887 (IX of 1887).[4]

No. 3, dated the 17th February, 1896.—The Chief Commissioner is pleased to apply clause (*c*) of sub-section (*1*) of section 2 of the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887, to the Shan States.

[*See* Burma Gazette, 1896, Pt. I, p. 73.]

No. 20, dated the 23rd August, 1898.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886)[1] and sections 4 and 5

[1] *See* now s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 263.
[2] *See* now s. 10 (*1*) of Act XIII of 1898.
[3] The Gambling Acts have been repealed in Upper Burma (except the Shan States) by the Burma Gambling Act, 1899 (I of 1899), printed, *supra*, p. 574.
[4] Printed, *supra*, p. 322.
[*] Printed, Burma Gazette, 1896, Pt. I, p. 252.

(2) Notifications extending Laws to, or making Laws for, the Shan States—contd.

of the Shan States Act, 1888 (XV of 1888),[1] and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased, in supersession of Notification No. 4 of the 17th March, 1896, to make the following amendments in the first part of the Second Schedule attached to the Shan States Laws and Criminal Justice Order, 1895, namely:—

(1) *For* the words and figures "Sections 14 and 19, and so much of sections 15 to 18 (both inclusive) as have reference to section 14" in the third column opposite Act XXI of 1879 *substitute* "Sections 1 and 3 and Chapters IV and V."

(2) After the entries relating to Act XII of 1891, *insert* in the first, second and third columns respectively "V of 1896," "The Foreign Jurisdiction and Extradition Act, 1896" and "So much as is in force in any part of Upper Burma at this date."

[Burma Gazette, 1898, Pt I, p. 406.]

Laws extended to the State of Möng Mit.

No. 15, dated the 28th May, 1896.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886),[1] and with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma is pleased, in supersession of the notification in the Political Department, No. 37, dated the 22nd November, 1895, to extend to the Shan State of Möng Mit (Momeik), with its dependency Möng Lāng, all the enactments now in force in Upper Burma, except those in force in the town of Mandalay only.

[Burma Gazette, 1896, Pt. 1, p. 252.]

Extension of parts of Upper Burma Land and Revenue Regulation, 1889 (III of 1889) to the Shan States.

No. 3, dated the 28th January, 1897.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act (XX of 1886)[1] and section 5 of the Shan States Act (XV of 1888),[1] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend to the Shan States (as defined in this Department Notification No. 10,[2] dated the 11th July, 1895), section 26 of the Upper Burma Land and Revenue Regulation (III of 1889) subject to the following modifications, namely:—

(*1*) "State land" shall mean land wholly or partly at the disposal of the Chief of the State: Provided that—

(*a*) in case of dispute the Superintendent shall decide whether any particular land is State land or not; and

(*b*) land in the possession or occupation of any individual shall be presumed not to be State land until it has been proved to the satisfaction of the Superintendent to be State land.

(*2*) The powers conferred on the Financial Commissioner shall be exercised by the Chief Commissioner.

(*3*) "Revenue-officer" shall mean any person appointed by the Chief Commissioner to be a Revenue-officer.

[Burma Gazette, 1897, Pt. I, p. 46.]

Amendment of Notification No. 11, dated 19th November 1890.[3]

No. 31, dated 22nd November, 1897.—In exercise of the powers conferred by section 4, sub-section (*1*), clause (*d*), of the Shan States Act, 1888, the Lieutenant-Governor is pleased

[1] *See* now s. 10 (*1*) of Act XII of 1898, *infra*, p. 263.
[2] Printed, *supra*, p. 604.
[3] Printed, *supra*, p. 612.

2) *Notifications extending Laws to, or making Laws for, the Shan States*—concld.

to direct that the words "with the sanction of the Chief Commissioner" shall be erased from Rule (*b*) 12 of the Rules published under Foreign Department Notification No. 11, dated the 19th November, 1890.[1]

[Burma Gazette, 1897, Pt. I, p. 626.]

Extension of part of the Upper Burma Land and Revenue Regulation, 1889 (III of 1889), to the Civil Station of Taunggyi.

No. 22, dated the 3rd October, 1898.—In exercise of the powers conferred by section 8, sub-section (*1*), of the Upper Burma Laws Act, 1886 (XX of 1886) and section 5 of the Shan States Act, 1888 (XV of 1888),[2] and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to extend to the Civil station of Taunggyi, in the Shan State of Yawnghwe, the provisions of section 22 and Chapter IV (with the exception of section 43) of the Upper Burma Land and Revenue Regulation, 1889 (III of 1889), and to declare their extension to be subject to the following modifications :—

Modifications.

(*a*) For the words "Financial Commissioner," wherever they occur, the words "Local Government" shall be substituted.

(*b*) The Civil station of Taunggyi shall be deemed to be a district, the Superintendent of the Southern Shan States shall be deemed to be a Collector, and all Assistant Superintendents in the Southern Shan States to be Assistant Collectors, and all these officers shall be deemed to be Revenue-officers for the purposes of the Regulation.

[Burma Gazette, 1898, Pt. I, p. 462.]

Extension of certain Acts to the Civil Station of Lashio.

No. 27, dated the 19th December, 1898.—In exercise of the powers conferred by section 10 of the Burma Laws Act, 1898 (XIII of 1898), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to extend the [3]Public Gambling Act, 1867 (III of 1867), the Cattle-trespass Act, 1871 (I of 1871), the [3]Burma Gaming Act, 1884 (XVI of 1884), and the Excise Act, 1896 (XII of 1896), to the Civil station of Lashio in the State of North Hsenwi.

[Burma Gazette, 1898, Pt. I, p. 584.]

Notification extending the Upper Burma Forest Regulation, 1898 (V of 1898), to certain Shan States

No. 35 (Forests), dated the 23rd January, 1899.—In exercise of the powers conferred by section 10, sub-section (*1*), of the Burma Laws Act (XIII of 1898), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor extends the Upper Burma Forest Regulation, V of 1898, to all the Shan States except those portions of the Northern Shan States which lie east of the Salween river.

[Burma Gazette, 1899, Pt. I, p. 59.]

3.—Notifications conferring powers in respect to the Shan States.

Notification investing the Ngwegunhmus of certain States in the Myelat with the powers of a Magistrate of the second class.

No. 15, dated the 28th November, 1889.—In exercise of the power conferred by section 12 of the Code of Criminal Procedure, 1882,[4] as modified by the Upper Burma

[1] Printed, *supra*, p. 612.
[2] *See* now s. 10 (*1*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 263.
[3] These Acts are now repealed in Burma, by the Burma Gambling Act, 1899 (Burma Act I of 1899). Printed, *supra* p. 574.
[4] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), General Acts, Vol. VI, p. 380.

(3). Notifications conferring powers in respect to the Shan States—contd.

Criminal Justice Regulation, 1886[1], and section 4, sub-section (*1*), clause (*a*), of the Shan States Act, 1888,[2] the Chief Commissioner is pleased to appoint the Ngwegunhmu for the time being of each of the undermentioned States in the Myelat, namely,—

Yawangan,	Kyôn,	Lwèmaw,
Kyaukkuleywa,	Naukon,	Nankè,
Pwehla,	Thamaingkan,	Nantôk,
Pindaya,	Pinhmi,	
Bawaaing,	Lwè-è,	

to be a Magistrate of the second class, and to exercise jurisdiction as such within the local limits of the State which he administers.

[Burma Gazette, 1889, Pt. I, p. 481.]

Appointment of Deputy Commissioner, Ruby Mines District, to administer temporarily the Shan State of Mong Mit.

No. 5, dated the 19th May, 1892.—In exercise of the powers conferred by section 4, sub-section (*1*), of the Shan States Act (XV of 1888), the Chief Commissioner is pleased to appoint the Deputy Commissioner for the time being of the Ruby Mines District to administer temporarily and until further orders the Shan State of Möng Mit (Momeik) with its dependency Möng Läng (Mohlaing).

[Burma Gazette, 1892, Pt. I, p. 295.]

Collection of Revenue from Kachins in North Hsinwi.

No. 2, dated the 12th February, 1895, as modified by Political Department Notification No. 33, dated the 18th November, 1895.— * * * * *[3] Under the provisions of section 4, sub-section (*1*), clause (*a*), of the Shan States Act, 1888,[2] the Chief Commissioner appoints the Superintendent, Northern Shan States, and the Assistant Political Officer, North Hsinwi, to undertake the collection of revenue from Kachins in circles of North Hsinwi within the jurisdiction of the Assistant Political Officer.

[Burma Gazette, 1895, Pt. I, pp. 56 and 508.]

Notification appointing the Myoza of Mawnäng to be a Magistrate of the second class.

No. 8, dated the 19th June, 1893.—In continuation of Foreign Department Notification No. 15, dated the 28th November, 1889, and in exercise of the power conferred by section 12 of the Code of Criminal Procedure, 1882,[4] as modified by the Upper Burma Criminal Justice Regulation, 1886,[1] and section 4, sub-section (*1*), clause (*a*), of the Shan States Act, 1888,[2] the Chief Commissioner is pleased to appoint the Myozas for the time being of the *Loi Löng* [5] and Mawnäng States, in the Myelat, to be Magistrates of the second class and to exercise jurisdiction as such within the local limits of their respective States.

[Burma Gazette, 1893, Pt. I, p. 297.]

Control over Criminal Jurisdiction.

No. 12, dated the 11th July, 1895.—The Chief Commissioner of Burma is pleased—

1. Under section 4, sub-section (*1*), clause (*a*), of the Shan States Act (XV of 1888),[6] to appoint the following officers to exercise a general control over the administration of criminal justice within the following States respectively, namely :—

(*a*) the Superintendent, for the time being, Northern Shan States, within the Northern Shan States ;

[1] *See* now the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), printed, *supra*, p. 373.
[2] *See* now s. 12 of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 264.
[3] First clause was cancelled by Notification No. 33, dated 18th November, 1895. Burma Gazette, 1895, Pt. I, p. 508.
[4] *See* the fourth footnote on preceding page.
[5] The powers of the Myoza of Loi Löng, which is no longer in the Myelat, have been withdrawn by the Political Department Notification No. 15 of 3rd August, 1895. Burma Gazette, 1895, Pt. I, p. 346.
[6] *See* now s. 12 (*1*) (*a*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 264.

(3). Notifications conferring powers in respect to the Shan States—contd.

(*b*) the Superintendent and Political Officer, for the time being, Southern Shan States, within the Southern Shan States ; and

(*c*) the Deputy Commissioner, for the time being, of the Upper Chindwin District within the States of Hsawnghsūp and Singkaling Hkāmti ; and

2. Under section 4, sub-section (*1*), clause (*b*),[1] of the same Act, with the previous sanction of the Governor General in Council, to make the following orders, namely :—

(*1*) In exercise of such control as aforesaid, each of the officers above specified may—

(*a*) himself take cognizance of any case and try or transfer it to a Subordinate Magistrate for trial ; and

(*b*) call for the record of any case which is pending before or has been disposed of by the Chief of the State, and may—

(i) stay the proceedings of the Chief ;

(ii) modify or cancel any order passed by the Chief which is not in accordance with justice, equity and good conscience ;

(iii) try and decide the case himself.

(*2*) In exercising the powers conferred by this notification, the said officers shall observe the procedure prescribed for Magistrates by the Code of Criminal Procedure, 1882,[2] modified by the Shan States Laws and Criminal Justice Order, 1895.[3]

II.—In this notification —

(1) "Northern Shan States" and "Southern Shan States" mean the States specified under those descriptions respectively in the Notification of the Chief Commissioner of Burma in the Political Department, No. 10, of this date, and

(2) "Chief" has the meaning defined for it by section 2 of the Shan States Act, 1888.

III.—This notification supersedes the notifications of the Chief Commissioner of Burma in the Foreign Department, No. 5, dated the 30th May, 1889, and in the Political Department, No. 11, dated the 14th July, 1892.

[Burma Gazette, 1895, Pt. I, p. 267.]

Powers of officers under certain Acts.

No. 13, dated the 11th July, 1895.—In exercise of the powers conferred by section 4, sub-section (*1*), clause (*c*), of the Shan States Act (XV of 1888),[4] and with the previous sanction of the Governor General in Council, the Chief Commissioner of Burma is pleased to direct that the jurisdiction, powers, and duties incident to the operation in the Shan States of the enactments specified below shall be exercised and performed by the authorities there specified.

1. *The Indian Christian Marriage Act (XV of 1872)*—

(*a*) The jurisdiction, powers and duties of Marriage Registrars under this Act shall be exercised and performed—

(i) in the Northern Shan States, by the Superintendent, for the time being, Northern Shan States ;

(ii) in the Southern Shan States and in the Myelat, by the Superintendent and Political Officer, for the time being, Southern Shan States ;

as if each of these two groups of States respectively were districts for the purposes of the Act ;

(*b*) the powers and duties of the District Judge under sections 45, 46, 48 and 49 of this said Act shall be exercised and performed by the Chief Commissioner of Burma ; and

(*c*) the power conferred by section 72 of this Act on a "competent Court" shall also be exercised by the Chief Commissioner of Burma.

[1] *See* now s. 12 (*1*) (*b*) of the Burma Laws Act, 1898 (XIII of 1898), *supra*, p. 64.

[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.

[3] Printed, *supra*, p. 604.

[4] *See* now s. 13 (*1*) (*c*) of Act XIII of 1898.

(3) Notifications conferring powers in respect to the Shan States—contd.

2. *The Administrator General's Act (II of 1874)*—

The jurisdiction, powers and duties exercised and performed by District Judges under this Act shall be exercised and performed—

(*a*) in the Northern Shan States, by the Superintendent, for the time being, Northern Shan States;

(*b*) in the Southern Shan States and in the Myelat, by the Superintendent and Political Officer, for the time being, Southern Shan States;

(*c*) in the States of Hsawnghsūp and Singkaling Hkāmti, by the Deputy Commissioner, for the time being, of the Upper Chindwin District.

3. *The Foreign Jurisdiction and Extradition Act (XXI of 1879)*—

The jurisdiction, powers and duties which may be exercised and performed by a Magistrate under this Act shall be exercised and performed—

(*a*) in the Northern Shan States, by the Superintendent or Assistant Superintendent, for the time being, of the Northern Shan States;

(*b*) in the Southern Shan States and in the Myelat, by the Superintendent and Political Officer or Assistant Superintendent, for the time being, of the Southern Shan States;

(*c*) in the States of Hsawnghsūp and Singkaling Hkāmti, by the Deputy Commissioner, for the time being, of the Upper Chindwin District.

II.—In this notification "Northern Shan States," "Southern Shan States" and the "Myelat" mean the States specified under these descriptions respectively in the notification of the Chief Commissioner of Burma in the Political Department, No. 10,[1] of this date.

[Burma Gazette, 1895, Pt. I, p. 267.]

Appointment of Ngwegunhmu for Maw.

No. 16, dated the 3rd August, 1895.—In exercise of the power conferred by section 12 of the Code of Criminal Procedure, 1882,[2] and section 4, sub-section (*1*), clause (*a*), of the Shan States Act, 1888,[3] the Chief Commissioner is pleased to appoint the Ngwegunhmu for the time being of the Maw (Baw) State, in the Myelat, to be a Magistrate of the second class, and to exercise jurisdiction as such within the local limits of his State.

[Burma Gazette, 1895, Pt. I, p. 315.]

Exercise of power under certain Acts in Civil Station of Taunggyi.

No. 44, dated the 16th December, 1895, as modified by Notification No. 14, dated the 28th May 1896 [a]—In exercise of the powers conferred by section 4, sub-section (*1*), clause (*c*), of the Shan States Act (XV of 1888),[4] and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that in the Civil Station of Taunggyi in the State of Yawnghwe—

(i) the functions and powers performed and exercised by the Chief Revenue-authority and by the Financial Commissioner, respectively, under the Excise Act (XII of 1896), and the rules made thereunder, shall be performed and exercised by the Chief Commissioner;

(ii) the jurisdiction, powers and duties exercised and performed by the District Magistrate under[5] Act III of 1867 (*an Act to provide for the punishment of public gambling and the keeping of common gaming-houses*), the Cattle-trespass Act (I of 1871), the Excise Act (XII of 1896), and the [5]Burma Gaming Act (XVI of 1884), shall be exercised and performed by the Superintendent of the Southern Shan States, and that every Assistant Superintendent of the Shan States shall exercise and perform the jurisdiction, powers and duties of a Sub-divisional Magistrate, being a Magistrate of the first class under the said Acts.

[Burma Gazette, 1895, Pt. I, p. 551.]

[1] Printed, *supra*, p. 604.
[2] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, General Acts, Vol. VI, p. 380.
[3] *See* now s. 12 (*1*) (*a*) of the Burma Laws Act, 1898 (XIII of 1898), printed, *supra*, p. 264.
[4] *See* now s. 12 (*1*) (*c*) of Act XIII of 1898.
[5] The Gambling Acts are repealed in Burma, by the Burma Gambling Act, 1899 (Burma Act I of 1899), *supra*, p. 574.
[a] Burma Gazette, 1896, Part I., p. 252.

(3) Notifications conferring powers in respect to the Shan States—contd.

Powers of a Collector under the Excise Act, 1896 (XII of 1896).

No. 18, dated the 28th May, 1896.—In exercise of the power conferred by section 3 (*b*) of the Excise Act, 1896, the Chief Commissioner appoints the Superintendent and Political Officer to discharge throughout the Civil Station of Taunggyi, in the Shan State of Yawng Hwe, the functions of a Collector under the said Act.

[Burma Gazette, 1896, Pt. I, p. 264.]

Functions of Assistant Superintendent in certain Shan States.

No. 6, dated the 18th February, 1897.—With reference to section 3, sub-section (*4*) of the Shan States Laws and Criminal Justice Order, 1895, and in exercise of the power conferred by sect on 4 of the Shan States Act, 1888,[1] the Chief Commissioner is pleased to appoint the undermentioned officers to discharge all the functions of an Assistant Superintendent within the Shan States specified :—

The Sub-divisional Officer, Pyinulwin, for the time being, in the Northern Shan States.

The Adviser, for the time being, to the Sawbwa of Hsipaw, in the Northern Shan States.

The Sub-divisional Officer, Möng Mit, for the time being, in the Northern Shan States.

The Sub-divisional Officer, Môgok, for the time being, in the Northern Shan States.

The Sub-divisional Officer, Legavaing, for the time being, in the Shan States of Hsawnghsūp and Sīngkaling Hkāmti.

[Burma Gazette, 1897, Pt. I, p. 72.]

Revenue-Officers for purposes of s. 25 of the Up Burma Land and Revenue Regulation, 1889 (II of 1889).

No. 7, dated the 2nd April, 1897.—The Chief Commissioner appoints the Superintendents of the Northern and Southern Shan States, and all Officers exercising the powers of an Assistant Superintendent in these States, to be Revenue-Officers for the purposes of section 26 of the Upper Burma Land and Revenue Regulation (1889), as modified by Political Department Notification No. 3, dated the 28th January, 1897.[2]

[Burma Gazette, 1897, Pt. I, p. 154.]

Exercise of powers under certain Acts in Civil Station of Lashio.

No. 28, dated the 19th December, 1898.—In exercise of the powers conferred by section 12, sub-section (*1*), clause (*c*), of the Burma Laws Act, 1898 (XIII of 1898), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to direct that, in the Civil station of Lashio, in the State of North Hsinwi,—

(i) the functions and powers performed and exercised by the Chief Revenue Authority and by the Financial Commissioner, respectively, under the Excise Act, 1896 (XII of 1896), and the rules made thereunder, shall be performed and exercised by the Lieutenant-Governor ;

(ii) the jurisdiction, powers and duties exercised and performed by the District Magistrate under the [3]Public Gambling Act, 1867 (III of 1867), the Cattle-trespass Act, 1871 (I of 1871),[3] the Burma Gaming Act, 1884 (XVI of 1884),

[1] *See* now Act XIII o 1898, s. 10, *et seq.*, printed, *supra*, p. 263.

[2] Printed, *supra*, p 617.

[3] *See* the fifth footnote on p. 621.

(3). Notifications conferring powers in respect to the Shan States—contd.

and the Excise Act, 1896 (XII of 1896), shall be exercised and performed by the Superintendent of the Northern Shan States, and every Assistant Superintendent of the Shan States shall exercise and perform the jurisdiction, powers and duties of a Sub-divisional Magistrate, being a Magistrate of the first class, under the said Acts.

[Burma Gazette, 1898, Pt. I, p. 585.]

Appointment of Political Agent for Chinese Prefectures.

No. 2260 E., dated the 26th December, 1895.—In exercise of the power conferred by section 3 of the Foreign Jurisdiction and Extradition Act (XXI of 1879), the Governor General in Council is pleased to appoint the Deputy Commissioner, for the time being, of the Bhamo District to exercise all the powers of a Political Agent under the said Act, for the Prefecture of Yungchang and Sub-Prefecture of Peng-Yueh in China.

[Gazette of India, 1895, Pt. I, p. 1008.]

Notification empowering Political Agent to surrender certain persons.

No. 2261 E, dated the 26th December, 1895.—With reference to section 13 of the Foreign Jurisdiction and Extradition Act (XXI of 1879), the Governor General in Council is pleased to direct that the Deputy Commissioner of the Bhamo District may, in exercise of the powers of a Political Agent conferred upon him by the Notification of the Government of India in the Foreign Department, No. 2260 E., dated the 26th December, 1895, give over any person arrested and forwarded in accordance with the provisions of section 12 of the said Act, to be tried by the ordinary Courts of the State in which the offence was committed or is alleged to have been committed by such person.

[Gazette of India, 1895, Pt. I, p. 1008.]

Appointment of Political Agent for certain Siamese provinces.

No. 959 E., dated the 22nd May, 1896.—In exercise of the power conferred by section 3 of the Foreign Jurisdiction and Extradition Act (XXI of 1879), the Governor General in Council is pleased to appoint the Assistant Political Officer for the time being at Keng Tung to exercise all the powers of a Political Agent under the said Act for the Siamese Provinces of Müang Nan, Müang Pharê and Müang Thön.

[Gazette of India, 1896, Pt. I, p. 376.]

Notification empowering Political Agent to surrender certain persons.

No. 960 E., dated the 22nd May, 1896.—With reference to section 13 of the Foreign Jurisdiction and Extradition Act (XXI of 1879), the Governor General in Council is pleased to direct that the Assistant Political Officer at Keng Tung may, in exercise of the powers of a Political Agent conferred upon him by the notification of the Government of India in the Foreign Department, No. 959E., dated the 22nd May, 1896, give over any person arrested and forwarded in accordance with the provisions of section 12 of the said Act to be tried by the ordinary Courts of the State in which the offence was committed or is alleged to have been committed by such person.

[Gazette of India, 1896, Pt. I, p. 376.]

Appointment of Political Agent for certain Chinese districts.

No. 1, dated the 3rd January, 1899.—In exercise of the power conferred by section 3 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), the Lieutenant-

(3). Notifications conferring powers in respect to the Shan States—concld.

Governor of Burma is pleased to appoint the undermentioned officers to exercise all the powers of a Political Agent under the said Act for the districts, specified in each case belonging to the Southern division of Yunnan in China :—

The Superintendent, Northern Shan States, for the time being, for the districts of Kengma, Mengting and Chenkang in the Prefecture of Shun-ning and the district of Chenpien in the sub-Prefecture of Chenpien.

The Assistant Political Officer, Kēng Tūng for the time being, for the districts of Mönglem and Kēnghūng in the sub-Prefecture of Ssūmao.

[Burma Gazette, 1899, Pt. I, p. 2.]

No. 63-E. B., dated the 13th January, 1899.—With reference to section 13 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), the Governor General in Council is pleased to direct that the Superintendent, Northern Shan States, and the Assistant Political Officer, Keng Tung, respectively, may, in exercise of the powers of a Political Agent conferred upon them by the notification of the Government of Burma in the Political Department, No. 1, dated the 3rd January, 1899, give over any person arrested and forwarded in accordance with the provisions of section 12 of the said Act, to be tried by the ordinary Courts of the State in which the offence was committed or is alleged to have been committed by such person.

[Gazette of India, 1899, Pt. I, p. 23.]

(4).—Notifications making Rules and Orders under Laws in force in the Shan States.

Rules under the Excise Act, 1896 (XII of 1896) for Taunggyi.[1]

No. 19, dated the 28th May, 1896.—In exercise of the power conferred by sections 22 and 65 of the Excise Act, 1896, as applied to the Station of Taunggyi by Political Department Notifications No. 44, dated the 16th December, 1895, and No. 14, dated the 28th May, 1896,[2] the Chief Commissioner makes the following rules concerning the grant of licenses to sell spirit and fermented liquor and intoxicating drugs, and to the disposal of things confiscated under the Act in the Station of Taunggyi he Shan State of Yawng Hwe :—

Rules under the Excise Act applicable to the Civil Station of Taunggyi in the State of Yawng Hwe.

1. The Superintendent and Political Officer shall be primarily responsible for the management of all matters connected with excise in the civil station.

2. The period for which a license under the Excise Act shall be granted shall be the period from the 1st April in any year, or any later date upon which the license may be granted, to the 31st day of March following.

3. Such number of the undermentioned kinds of licenses, as the Chief Commissioner may fix from time to time, may be granted at a fixed annual fee in the form and subject to the conditions of Appendix I or Appendix II :—

(*a*) Licenses in the form of Appendix I for the sale of foreign spirit and foreign fermented liquor wholesale, under section 13 of the Act, for a fixed fee of Rs. 100.

(*b*) Licenses in the form of Appendix II to sell by retail imported liquor in quantities of not less than one pint bottle of liquor at one sale, not to be drunk on the premises, for a fixed fee of Rs. 200.

4. Licenses shall only be granted to respectable general shop-keepers.

5. The fee for each license shall be paid in full before the license is issued.

[1] Rules similar to the above and applicable to the Civil Station of Lashio have been issued under Notification No. 23, dated 1st June 1899, Burma Gazette, 1899, Part I, page 276. These rules also provide for the manufacture and sale of "Shamshu" spirit.

Printed, *supra*, p. 621.

(4.)—Notifications making Rules and Orders under Laws in force in the Shan States—contd.

6. A license-holder shall not sub-let his shop, nor shall he transfer his license to any other person without the permission of the Superintendent and Political Officer.

7. A licensed vendor shall not keep his supplies of liquor elsewhere than in the shop or place of vend for which he has received a license.

8. No licenses shall be granted for the sale of country spirit or country fermented liquor or intoxicating drugs.

9. Confiscated liquor of illicit manufacture shall be destroyed. Other liquor shall ordinarily be sold by auction or otherwise, as the Superintendent and Political Officer may direct, to any person having a license to sell, or a right to possess, liquor of the same description: Provided that no liquor shall be sold at a less price than the equivalent of Rs. 6 per gallon of proof spirit. Other confiscated property, such as jars and vessels, used in storing or conveying liquor, shall ordinarily be sold by auction to the highest bidder.

APPENDIX I.

License for the wholesale vend of foreign spirit and foreign fermented liquor.

(NOTE.—Counterpart to be signed by the holder, and filed in the office of the Superintendent and Political Officer.)

Name of vendor.—
Locality of vend.—

BE it known that , resident of , is hereby authorized by the undersigned, Superintendent and Political Officer, Southern Shan States, to sell foreign spirit and foreign fermented liquor wholesale in his premises in Taunggyi Civil Station till the 31st March, 189 , subject to the conditions stated below:—

(1) That he pay to Government in advance for the year a fee of Rs. 100.

(2) That he sell either foreign spirituous or foreign fermented liquor in a quantity not less than two imperial gallons or 12 reputed quart bottles at one time.

Illustration.—A sale at one time of an assortment consisting of two imperial gallons of both foreign spirituous and fermented liquor is not permissible. A sale at one time of two imperial gallons of spirituous liquor, or two imperial gallons of fermented liquor, is compulsory.

(3) That he constantly exhibit a signboard at his place of vend bearing in English his name and the words "Licensed to vend foreign spirit and foreign fermented liquor by wholesale."

(4) That he shall keep a register in the form of Appendix III of all sales effected to non-residents of the station, and of sales to residents of the station of liquor purchased for the purpose of despatch beyond the station limits. This register shall be kept in the place of vend, and upon demand shall be shown to any Excise-officer above the rank of constable.

(5) That he shall keep a stock of well known and approved brands of spirituous and fermented liquor to the satisfaction of the Superintendent and Political Officer.

(6) This license may be cancelled by the Superintendent and Political Officer if any breach of the Excise Act, or of the rules thereunder, or of the above conditions, is committed by the license-holder, or his partner or agent, or any other person employed in the premises for which the license is given, and in such case any liquor found on the license-holder's premises may be confiscated.

The 18 . *Superintendent and Political Officer, Southern Shan States*

APPENDIX II.

License for the retail vend of foreign spirits, and foreign fermented liquors, in quantities of not less than one pint bottle, not to be drunk on the premises.

(NOTE.—Counterpart of this to be signed by the license-holder and deposited in the office of the Superintendent and Political Officer, Southern Shan States.)

Name of vendor.—
Locality of vend.—

Be it known to all concerned that , resident of , is hereby authorized by the undersigned, Superintendent and Political Officer, Southern Shan States, to open a shop in

(4.)—Notifications making Rules and Orders under Laws in force in Shan States—contd.

Taunggyi Civil Station, from the date of this license till the 31st March, 189 , for the sale by retail of foreign spirit and fermented liquor." It is required of the holder of this license, as a condition of its remaining in force, that he duly and faithfully perform and abide by the following articles :—

(*1*) That he pay to Government in advance a fee of Rs.

(*2*) That he effect a sale of liquors only in the shop for which this license is granted, and that he do not sell liquor in any other place in the Shan States or establish a second shop therein.

(*3*) That he do not sell more than two imperial gallons, or 12 reputed quart bottles, or less than one pint bottle of liquor to any person at one sale.

(*4*) That he do not allow any liquor to be drunk in his shop or on his premises.

(*5*) That he do not open his shop or effect sales therein before sunrise, nor keep it open or effect sales therein after 6 P.M., and that he do not harbour any person therein during the night.

(*6*) That he do not receive any wearing-apparel or other goods in barter for liquor.

(*7*) That he do not sublet his shop or transfer his license without the written permission of the Superintendent and Political Officer.

(*8*) That he have constantly fixed up at the entrance of his shop a signboard bearing the following inscription in English :—

Name of Vendor.

"Licensed to sell by retail foreign spirits and fermented liquors in quantities of not less than one pint bottle not to be drunk on the premises."

(*9*) That he produce his license for inspection on demand by any Excise-officer, and that he do not prevent any Excise-officer above the rank of constable from entering his shop at any hour of the day or night.

(*10*) That he shall keep a stock of well-known and approved brands of spirituous and fermented liquor to the satisfaction of the Superintendent and Political Officer, Southern Shan States.

(*11*) This license may be cancelled by the Superintendent and Political Officer, Southern Shan States, if any breach of the Excise Act, or of the rules thereunder, or of the above conditions, is committed by the license-holder, or his partner or agent, or any other person employed in the premises for which the license is given.

The 18 . Superintendent and Political Officer, Southern Shan States.

APPENDIX III.

Form of Register prescribed under condition (4) of the form of wholesale license under the Excise Act applicable to the Civil Station of Taunggyi.

Date of sale.	Article sold.	Quarts.	Pints.	Name and residence of purchaser.	On whose account purchased.	Date of removal.	By whom removed; name and residence.

[Burma Gazette, 1896, Pt. I, p. 264.]

Rules for grant of State land.

No. 4, dated 28th January, 1897.—In exercise of the power conferred by section 26 of the Upper Burma Land and Revenue Regulation, 1889, as extended to the Shan States

(4.)—Notifications making Rules and Orders under Laws in force in the Shan States—contd.

by this Department Notification[1] No. 3, dated the 28th January, 1897, and with the approval of the Governor General in Council, the Chief Commissioner is pleased to make the following rules for the said States:—

(*1*) The Chief of a State, and such officers as he may appoint in this behalf, may dispose of State land by grant or otherwise, on such conditions (if any) as the Chief may prescribe, to any person who is a native of a Shan State:
Provided that the Chief shall not alienate any land which has been allotted to any village except with the consent of the village community.

(*2*) The Chief of a State, with the previous sanction of, and subject to such conditions * as may be approved by, the Superintendent, may dispose of State land to any person who is not a native of a Shan State:
Provided that the Chief shall not alienate any land which has been allotted to any village, except with the consent of the village community.

(*3*) No State land shall be disposed of otherwise than in accordance with Rule (*1*) or Rule (*2*).

(*4*) Any person who is not a native of a Shan State occupying or using State land otherwise than in accordance with permission granted under Rule (*2*) may be ejected by any Revenue Officer.

* *Rules regarding grants or leases of lands in the Shan States to persons other than natives of Shan States.*

1. Applicants for grants or leases of land in the Shan States must satisfy the Superintendent as to the purpose for which the land is required, and that they possess sufficient means for the carrying out of this purpose.

2. Applicants shall not be allowed to take up land as a speculation or otherwise than for *bonâ fide* use by themselves or their employés.

3. No grant or lease in excess of 100 acres shall be made without the special sanction of the Chief Commissioner in each case.

4. The right to all precious stones, mines, minerals, coal, earth-oil and quarries, under or within any land granted or leased, is reserved to Government, with full liberty to search for and work the same, subject to payment of compensation on account of disturbance or surface damage. Such compensation shall be determined by the Superintendent.

5. If the land is to be granted or leased with a period of exemption from revenue or rent, the grant or lease shall provide that an area of not less than half the total area shall be brought under cultivation before expiry of the period of exemption, or, where the land is to be used for purposes other than cultivation, that substantial progress shall, within such period, be made in fitting or applying the land to such use.

6. If the land is to be granted or leased free of revenue or rent, or without any period of exemption, the grant or lease shall provide that a certain area shall be brought under cultivation within a period to be specified therein; or, where the land is to be used for purposes other than cultivation, that substantial progress shall, within such period, be made in fitting or applying the land to such use.

7. It shall be provided in all grants or leases made under these rules that the grantee or lessee shall not be permitted to transfer his land otherwise than with the consent of the Superintendent; or, in cases where the original area covered by the grant or lease exceeds 100 acres, of the Chief Commissioner.

8. It shall further be provided that grantees or lessees committing any breach of the terms of their holdings shall be liable to forfeiture of their holding or to such minor penalty as the Chief of the State, with the concurrence of the Superintendent, may impose.

[Burma Gazette, 1897, Pt. I, p. 46.]

[Notification making Rules for certain Shan States under the Upper Burma Forest Regulation, 1898 (V of 1898).]

No. 80, dated the 24th February, 1899.—[This Notification is not reproduced here as to applies to Upper Burma as well as the Shan States, and is also too long for reproduction.]

[Burma Gazette, 1899, Pt. I, p. 99.]

[1] Printed, *supra*, p. 617.

B.—Notification extending and applying enactments to the Kachin Hills or Hill-tribes.

No. 6, dated the 20th June, 1895.—In exercise of the power conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation shall—

(1) extend to—

(*a*) all the hill tracts in the Bhamo district ; and

(*b*) all the hill tracts in the Myitkyina district lying—

(i) on the west of the Irrawaddy, to the south of a line running approximately due west along the parallel of 25° 43′ north latitude, but drawn along the northern boundary of the jade mines tract ;

(ii) on the east of the Irrawaddy to the south of the Nmaikha and of a straight line drawn from the junction of the Meungdôn Kha with the Nmaikha above N'sentaru ferry to the high conical peak situated approximately in latitude 25° 35′ north and in longitude 98° 14′ east ; and shall—

(2) apply to the undermentioned hill-tribes in those tracts—

Kachins. | Yawyins.

[Burma Gazette, 1895, Pt. I, p. 230.]

No. 18, dated the 13th August, 1895.—In exercise of the power conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895) and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation—

(i) shall extend to all the hill tracts in the Katha district ;

(ii) and shall apply to the undermentioned hill-tribe in those tracts :—

Kachins.

[Burma Gazette, 1895, Pt. I, p. 353.]

No. 35, dated the 18th November, 1895.—In exercise of the powers conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation—

(1) shall extend to all the hill tracts in the State of North Hsenwi ;

(2) and shall apply to the hill-tribe in those tracts known as the Kachins.

[Burma Gazette, 1895, Pt. I, p. 509.]

No. 38, dated the 22nd November, 1895.—In exercise of the power conferred by section 1, sub-section (*3*), of the Kachin Hill Tribes Regulation (I of 1895), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to direct that the said Regulation—

(i) shall extend to all the hill tracts in the State of Möng Mit, with its dependency Möng Lang ; and

(ii) shall apply to the undermentioned hill-tribes in those tracts :—

Kachins and Palaungs.

[Burma Gazette, 1898, Pt. I, p. 518.]

No. 14, dated the 30th June, 1898.—In exercise of the powers conferred by the proviso to section 3, sub-section (*2*), of the Kachin Hill Tribes Regulation, 1895 (I of 1895), and

with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare that, on and with effect from the 1st day of July, 1898, the following portions of the [1]Code of Criminal Procedure, 1898 (Act of V of 1898), shall be applicable to members of a hill-tribe in a hill tract:

Provided that all references in the said Regulation to the Code of Criminal Procedure, 1882 (Act X of 1882), shall be construed as referring to the corresponding provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), and that the portions of the said Code now declared to be applicable shall be subject to the provisions of the said Regulation so construed:

Provided also, that for section 345 of the said Code the following shall be deemed to be substituted, namely:—

"345. Any offence may, with the permission of the Court by which the offence is triable, be compounded." Compounding offences.

Portions of the Code of Criminal Procedure, 1898, declared to be applicable to members of a hill-tribe in a hill tract.

Sections 2, 3, 4, 12, 13, 17, 26, 28, 29, 31, 32, 33, 35, 42, 44; Chapter V, sections 68, 75, 79, 81, 82, 87, 89; Chapter VIII, Chapter IX, Chapter XIII, sections 177, 198; Chapter XVI, Chapter XVII, Chapter XIX, Chapter XX, Chapter XXI, Chapter XXII, sections 337, 343, 345, 349, 350, 351; Chapter XXV, Chapter XXVI, sections 374, 379; Chapter XXVIII, Chapter XXIX, Chapter XXX, Chapter XXXI, Chapter XXXII, Chapter XXXIV, Chapter XLI, Chapter XLIII, sections 528, 531, 537, 540, 543, 545, 547, 556, 558, 562, 563 and 564.

Schedule II, except column 6, Schedules III and IV.

[Burma Gazette, 1898, Pt. I, p. 322.]

No. 24, dated the 7th December, 1898.—In exercise of the power conferred by the proviso to section 3, sub-section (2), of the Kachin Hill Tribes Regulation, 1895 (I of 1895), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare the Indian Post Office Act, 1898 (VI of 1898),[2] to be applicable to members of a hill-tribe in a hill tract.

[Burma Gazette, 1898, Pt. I, p. 564.]

No. 6, dated the 16th February, 1899.—In exercise of the power conferred by the proviso to section 3, sub-section (2), of the Kachin Hill Tribes Regulation, 1895 (I of 1895), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare the General Clauses Act, 1897 (X of 1897), to be applicable to members of a hill-tribe in a hill tract.

[Burma Gazette, 1899, Pt. I, p. 83.]

No. 243 (Forests), dated the 4th July, 1899.—In exercise of the powers conferred by the proviso to section 3, sub-section (2), of the Kachin Hill-Tribes Regulation, 1895 (I of 1895), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare the Upper Burma Forest Regulation, 1898 (V of 1898), to be applicable to members of a hill tribe in a hill tract.

[Burma Gazette, 1899, Pt. I, p. 369.]

C.—Notification extending or applying enactments to the Chin Hills or to Hill-Tribes.

No. 15, dated the 30th June, 1898.—In exercise of the powers conferred by the proviso to section 3, sub-section (2), of the Chin Hills Regulation, 1896 (V of 1896), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare that, on and with effect from the 1st day of July, 1898, the following portions of the[1] Code of Criminal Procedure, 1898 (Act V of 1898), shall be applicable to Chins in the Chin Hills:

Provided that for section 345 of the said Code the following sections shall be deemed to be substituted, namely:

[1] Printed, General Acts, Vol. VI, p. 380.
[2] Printed, General Acts, Vol. VI.

Compounding offences.

"Any offence may, with the permission of the Court by which the offence is triable, be compounded."

Portions of the Code of Criminal Procedure, 1898, declared to be applicable to Chins in the Chin Hills.

Sections 2 to 13, 17, 26, 28, 29, 31, 32, 33, 35, 42, 44; Chapter V, sections 68, 75, 79, 81, 82, 87, 89; Chapter IX, Chapter XIII, sections 177, 198; Chapter XVI, Chapter XVII Chapter XIX, Chapter XX, Chapter XXI, Chapter XXII, sections 337, 343, 345, 349, 350, 351; Chapter XXV, Chapter XXVI, sections 374, 379; Chapter XXVIII, Chapter XXIX, Chapter XXX, Chapter XXXI, Chapter XXXII, Chapter XXXIV, Chapter XLI, Chapter XLIII, sections 528, 531, 537, 540, 543, 545, 547, 556, 558, 562, 563 and 564.

Schedule II, except column 6, Schedules III and IV.

[Burma Gazette, 1898, Pt. I, p. 322.]

No. 21, dated the 9th September, 1898.—In exercise of the power conferred by the proviso to section 3, sub-section (2) of the Chin Hills Regulation, 1896 (V of 1896), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare the Indian Post Office Act, 1898 (VI of 1898), to be applicable to the tracts to which section 2 and sections 4 to 41 of the said Regulation may, for the time being, extend.

[Burma Gazette, 1898, Pt. I, p. 420.]

No. 93, dated the 9th March, 1899.—In exercise of the power conferred by the proviso to section 3, sub-section (2), of the Chin Hills Regulation, 1896 (V of 1896), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to declare section 31 of the Upper Burma Land and Revenue Regulation, 1889 (III of 1889), as amended by the Upper Burma Land and Revenue Regulation (1889), Amendment Regulation, 1898 (III of 1898) to be applicable to Chins in the Chin Hills.

[Burma Gazette, 1899, Pt. I, p. 134.]

No. 7, dated the 16th February, 1899.—In exercise of the power conferred by the proviso to section 3, sub-section (2), of the Chin Hills Regulation, 1896 (V of 1896), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Burma is pleased to declare the General Clauses Act, 1897 (X of 1897),[1] to be applicable to Chins in the Chin Hills.

[Burma Gazette, 1899, Pt. I, p. 83.]

No. 242 (Forests), dated the 4th July, 1899.—In exercise of the power conferred by the proviso to section 3, sub-section (2), of the Chin Hills Regulation, 1896 (V of 1896), and with the previous sanction of the Governor-General in Council, the Lieutenant-Governor of Burma is pleased to declare the Upper Burma Forest Regulation, 1898 (V of 1898), to be applicable to Chins in the Chin Hills.

[Burma Gazette, 1899, Pt. I, p. 369.]

No. 13, dated the 25th April, 1899.—In exercise of the power conferred by sections 22 and 65 of the Excise Act, 1896, as applied to the Chin Hills by section 4 (*l*) of the Chin Hills Regulation, 1896, the Lieutenant-Governor makes the following rules concerning the grant of licenses to sell spirit and fermented liquor and intoxicating drugs, and as to the disposal of things confiscated under the Act in the Chin Hills:—

Rules under the Excise Act applicable to the Civil Stations of the Chin Hills.

The Superintendent shall be primarily responsible for the management of all matters connected with excise in the Chin Hills district.

2. The period for which a license under the Excise Act shall be granted shall be the period from the 1st April in any year, or any later date upon which the license may be granted, to the 31st day of March following.

[1] Printed, General Acts, Vol. VI, p. 316.

3. Such number of the undermentioned kinds of licenses as the Local Government may fix from time to time may be granted in the form and subject to the conditions of Appendix I or Appendix II—

(*a*) Licenses in the form of Appendix I to sell by retail foreign spirit and foreign fermented liquor, including foreign spirit and fermented liquor manufactured in a distillery licensed in Burma under section 5 of the Excise Act, 1896, in quantities of not less than one pint bottle of liquor at one sale, not to be drunk on the premises, for a fixed fee of Rs. 200.

(*b*) Licenses in the form of Appendix II to manufacture or sell by retail country fermented liquor other than *tari*, to be drunk on the premises or removed for a fixed fee of Rs. 200.

4. Licenses shall only be granted to respectable general shop-keepers at a fixed annual fee.

5. The fee for each license shall be paid in advance.

6. A license-holder shall not sub-let his shop, nor shall he transfer his license, to any other person without the permission of the Superintendent.

7. A licensed vendor shall not keep his supplies of liquor elsewhere than in the shop or place of vend for which he has received a license.

8. Confiscated liquor of illicit manufacture shall be destroyed. Other liquor shall ordinarily be sold by auction or otherwise, as the Superintendent may direct, to any person having a license to sell, or a right to possess, liquor of the same description, provided that no liquor shall be sold at a less price than the equivalent of Rs. 6 per gallon of proof spirit. Other confiscated property, such as jars and vessels used in storing or conveying liquor, shall ordinarily be sold by auction to the highest bidder.

APPENDIX I.

License for the retail vend of foreign spirit and foreign fermented liquors, including foreign spirit and fermented liquors manufactured in a distillery licensed in Burma under section 5 of the Excise Act, 1896, in quantities of not less than one pint bottle, not to be drunk on the premises.

Name of vendor_____

Locality of vend _____

Be it known to all concerned that _____, resident of _____, is hereby authorized by the undersigned, Superintendent, Chin Hills, to open a shop, in _____, Civil Station, from the date of this license till the 31st March, 189_____, for the sale by retail of foreign spirit and fermented liquor, and European spirit and liquor manufactured in Burma under section V of the Burma Excise [1] Act of 1896. It is required of the holder of this license, as a condition of its remaining in force, that he duly and faithfully perform and abide by the following articles :—

(1) That he pay to Government in advance a fee of Rs. 200.

(2) That he effect his sale of liquors only in the shop for which this license is granted, and that he do not sell liquor in any other place in the Chin Hills, or establish a second shop therein, except under a separate license.

(3) That he do not sell more than two imperial gallons or twelve reputed quart bottles, or less than one pint bottle of liquor to any person at one sale.

(4) That he do not allow any liquor to be drunk in his shop or on his premises.

(5) That he do not open his shop or effect sales therein before sunrise, nor keep it open or effect sales therein after 6 P.M., and that he do not harbour any person therein during the night.

(6) That he do not receive any wearing apparel or other goods in barter for liquor.

(7) That he do not knowingly sell or dispose of any liquor to Chin or Burman either directly or indirectly under cover of this license.

(8) That he do not sub-let his shop or transfer his license without the written permission of the Superintendent.

[1] *Sic, see* the Excise Act, 1896 (XII of 1896), *supra* p. 2[illegible].

(*9*) That he have constantly fixed up at the entrance of his shop a sign-board bearing the following inscription in English :—

"Name of vendor _____

"Licensed to sell by retail foreign spirits, fermented liquors, also European spirits and liquor manufactured in Burma under section 5 of the Act, in quantities of not less than one pint bottle, not to be drunk on the premises."

(*10*) That he produce his license for inspection on demand by any Excise Officer, and that he do not prevent any Excise Officer above the rank of constable from entering his shop at any hour of the day or night.

(*11*) That he shall keep a stock of well known and approved brands of spirituous and fermented liquor to the satisfaction of the Superintendent, Chin Hills.

(*12*) That he shall keep a Daily Register of all liquors sold in the following form :—

Date.	Name and residence of purchaser.	Liquor sold.	Remarks.
		Rs. A. P.	

(*13*) This license may be cancelled by the Superintendent, Chin Hills, if any breach of the Excise Act, or of the rules thereunder, or of the above conditions, is committed by the license-holder, or his partner, or agent, or any other person employed in the premises for which the license is given.

The Falam ; *18* . } *Superintendent, Chin Hills.*

APPENDIX II.

***License** for the manufacture and retail vend of country fermented liquor other than tari to be drunk on the premises or removed.*

Name of vendor _____

Locality of vend _____

Be it known to all concerned that _____, resident of _____ is hereby authorized by the undersigned, Superintendent, Chin Hills, to open a shop for the manufacture and retail vend of _____ at _____ from the date of this license till the 31st March, 189 , after which this license will cease to have effect. It is required of the holder of this license, as a condition of its remaining in force, that he duly and faithfully perform and abide by the following conditions :—

(*1*) That he pay to Government, in advance, a fee of Rs. 200.

(*2*) That he effect his sale of country fermented liquors only in the shop for which this license is granted, and that he do not sell such liquor in any other places in the Chin Hills or establish a second shop therein.

(*3*) That, subject to the following exception, he do not sell to one person at a single transaction more than four reputed quart bottles of country fermented liquor.

* *Exception.*—That to a person who produces a pass signed by the Superintendent, Chin Hills, or Assistant Superintendents, he may sell the quantity of country fermented liquor other than *tari* specified in the pass, but shall in no case sell to one person in a single transaction more than twenty-four reputed quart bottles of country fermented liquor.

* This exception may be struck out at the discretion of the Superintendent, Chin Hills.

(*4*) That he do not open his shop or effect sales therein before sunrise, or keep it open or effect sales therein after 8 P.M., and that he do not harbour any person therein during the night.

(*5*) That he do not permit drunkenness, riot, or gaming in his shop or permit persons of notoriously bad character to meet or remain therein, or receive any wearing apparel or other effects in barter for country fermented liquor.

(*6*) That he do not knowingly sell or dispose of any country fermented liquor to a Chin or Burman either directly or indirectly under cover of this license.

(*7*) That he do not sub-let his shop or transfer his license to any other person without the permission in writing of the Superintendent, Chin Hills.

(8) That he do not adulterate, so as to render it noxious to health, country fermented liquor sold by him

(*9*) That he constantly exhibit, at the entrance of his shop, a sign-board bearing the following inscription in Burmese and English :—

"Name of vendor _____."

"Licensed to sell retail _____ to be drunk on the premises or removed."

(*10*) That he produce his license on the demand of any Excise Officer and that he do not prevent any Excise Officer above the rank of constable from entering his shop at any hour of the day or night.

(*11*) This license may be cancelled by the Superintendent, Chin Hills, if any breach of the Excise Act, or of the rules thereunder, or of the above conditions, is committed by the license-holder, or his partner or agent, or any other person employed in the premises for which the license is given.

The FALAM ; *18* . } *Superintendent, Chin Hills.*

[Burma Gazette, 1899, Pt. I, p. 204.]

No. 9, dated the 1st May, 1897.—Under the provisions of section 1 (*2*) of the Chin Hills Regulation, 1896, the Lieutenant-Governor appoints the 1st June, 1897, as the date on which the said Regulation shall come into force.

[Burma Gazette, 1897, Pt. I, p. 210.]

No. 10, dated the 1st May, 1897.—In exercise of the powers conferred by section 1, sub-section (*3*), of the Chin Hills Regulation (V of 1896), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor is pleased to direct that the said Regulation, with the exception of sections 1 and 3, which extend to the whole of Chin Hills, shall extend to the following tract in the Chin Hills, namely, the tract bounded :—

on the north,—by the State of Manipur ;

on the east,—by portions of the Upper Chindwin and Pakôkku districts of Upper Burma ;

on the south,—by a line running east and west immediately south of the Baungshé village of Daidin ; and

on the west,—by portions of the North and South Lushai Hills, the Boinu river to its junction with the Titi stream, and a line drawn due south from the above junction to the southern boundary of the tract.

[Burma Gazette, 1897, Pt. I, p. 210.]

No. 13, dated the 1st May, 1897.—Under the provisions of section 11 of the Chin Hills Regulation, 1896, all Assistant Superintendents are invested with the powers conferred upon the Superintendent by section 14 of the said Regulation, the said powers to be exercised throughout the tract described in Political Department Notification No. 10, dated the 1st May, 1897, provided that an Assistant Superintendent shall not, in any one case under the said section, inflict a fine in excess of Rs. 50 if the fine is in money, or in goods having a value in excess of Rs. 50 if the fine is in goods.

[Burma Gazette, 1897, Pt. I, p. 211.]

No. 14, dated the 1st May, 1897.—Under the provisions of section 12, sub-section (*1*), of the Chin Hills Regulation, 1896, the following rules are prescribed to regulate the procedure for the trial of suits and other proceedings of a civil nature under that section :—

RULES.

(A) Procedure in cases in which every party is a member of a hill-tribe.

1. The courts shall not try any suit in which the matter in issue has been heard and finally decided by a court of competent jurisdiction in a former suit between the same parties in the same rights, or between parties under whom they or any of them claim.

2. Except with the permission of the court, every appearance, application, or act shall be made or done by the parties in person.

3. The plaintiff may commence his suit either by making to the Judge a verbal complaint, which shall be reduced to writing by or under the direction of the court, or by presenting a written plaint.

4. On a complaint being made or plaint presented, the court shall register the suit and examine the plaintiff or his agent as to the merits of his case.

5. If upon that examination it appears that there is no substantial cause of action or that the claim is one which from its nature is not a proper subject of litigation in a civil court, the court may dismiss the suit.

6. If upon that examination it is found that the plaintiff sets forth a good cause of action, the court shall issue a summons to the defendant to appear and answer at a certain place and on a certain day.

7. The defendant and witnesses, named by each party, shall be summoned in such manner as the court directs.

8. Summonses and all other processes of the court shall be issued without requiring any previous payment of fees, the cost of service or execution being recovered, if the court so directs, from the party declared liable to pay the same in the final order in the case.

9. Both the plaintiff and defendant should be present at the trial. But the court may try and dispose of a case in the absence of any of the parties, if there is no reasonable excuse for his absence. At the discretion of the court, a case which has been decided in the absence of any of the parties may be re-opened.

10. Any suit may be heard with the aid of assessors selected by the court.

11. Any evidence given in a language not understood by any party to a suit shall be interpreted to such party as the examination proceeds.

12. The court may call and examine as a witness any person whose evidence it considers necessary or desirable.

13. At the conclusion of the trial the Judge shall record a written order, stating the facts of the case, giving briefly the substance of the evidence, and containing his decision on the points in dispute. No other record of the statements of the parties or of the witnesses shall be necessary.

14. The order shall be explained to the parties in Chin, and they shall be given a copy of the part containing the decision in the case.

15. The court shall, upon the application of the person in whose favour an order is passed, made verbally or in writing, execute its orders in the following manner, that is to say—

(*a*) An order for any property in the possession of the judgment-debtor, by giving possession of such property to the person in whose favour the order is passed, or

when the property is moveable and possession of it cannot from any cause be given, levying in the manner next hereinafter provided the amount fixed as an alternative;

(*b*) An order for partition, by dividing the property and giving the person in whose favour the order is passed possession of his portion;

(*c*) An order for money, by attaching moveable property and selling it by auction;

(*d*) An order for the performance of any act by the judgment-debtor, by attaching his moveable property and retaining it under attachment.

Judgment-debtor means the person against whom an order is passed.

16. Whenever a person has become liable as security for the performance of an order or of any part thereof, the order may be executed against him to the extent to which he has rendered himself liable in the same manner as an order may be enforced against a judgment-debtor.

(B) PROCEDURE IN CASES IN WHICH ONE OR MORE OF THE PARTIES IS NOT A MEMBER OF A HILL-TRIBE.

17. In cases in which one or more of the parties is not a member of a hill-tribe the Court shall observe, as far as possible, the procedure prescribed in the Upper Burma Civil Courts Regulation, 1896.

Provided that any plaint or application may be instituted or made either verbally or in writing.

(C) RULES APPLICABLE TO ALL CASES.

18. Every court shall maintain a register in the form attached to these rules, in which the particulars of each suit or other proceeding shall be entered.

Register of Civil Suits.

Serial No. of case.	Date of institution.	Name and residence of complainant.	Name and residence of respondent.	Full particulars of case with date of its origin.	Final decision and remarks.
1	2	3	4	5	6

[Burma Gazette, 1897, Pt. I, p. 211.]

No. 15, dated the 1st May, 1897.—In exercise of the power conferred by section 35 of the Chin Hills Regulation, 1896, the Lieutenant-Governor is pleased to direct that a tax at the rate of one rupee a house per annum shall be levied on all clans and villages in the Chin Hills.

[Burma Gazette, 1897, Pt. I, p. 212.]

No. 16, dated the 1st May, 1897.—Under the provisions of section 39 of the Chin Hills Regulation, 1896, the Lieutenant-Governor is pleased to make the following rules and to prescribe the forms attached thereto for use by Superintendents and Assistant Superintendents exercising jurisdiction in the Chin Hills.

RULES.

1. Whenever there is reason to believe that an offence punishable under section 14 of the Regulation has been committed, the Assistant Superintendent shall ordinarily visit the scen of the offence as soon as possible, and make a full local enquiry into the facts of the case. When a local enquiry cannot conveniently be held, the Assistant Superintendent shall record the reasons in writing before commencing his enquiry elsewhere.

2. If the Assistant Superintendent is of opinion that a fine should be imposed, he shall prepare an estimate of the value of the property owned by the villagers.

3. If the case cannot suitably be disposed of by the Assistant Superintendent himself under the powers conferred by the Political Department Notification No. 13, dated the 1st May, 1897, he shall forward the estimate to the Superintendent with the record of the enquiry held under Rule 1 and with a report of the facts of the case, together with his recommendation as to the amount and nature of the fine to be imposed.

4. If in a case referred to the Superintendent under Rule 3 the Assistant Superintendent considers that compensation or reward should be given, he shall submit a recommendation to that effect, stating the names of the person or village to whom compensation should be paid, the amount recommended and the reasons for his recommendation. If the Superintendent considers that a fine should not be imposed, he shall record an order to this effect and inform the Assistant Superintendent.

If the Superintendent considers that a fine should be imposed, he shall record an order to this effect, stating the amount and nature of the fine and the compensation, if any, sanctioned.

The Superintendent shall send a copy of his order to the Assistant Superintendent for immediate action, and shall submit a summary of the proceedings to the Local Government.

5. The Superintendent's proceedings should deal only with fines and compensation which alone can be paid out of the fine. The question of a reward must be dealt with separately. If the Superintendent cannot sanction it under the rules published in Judicial Department Notification No. 286, dated the 20th August, 1896, he should submit a report setting out the facts and the reward recommended.

6. When the imposition of a fine is ordered, it should be levied and the compensation (if any) paid at once and the realization reported in Form Miscellaneous—Villages 4.

7. When a fine is levied under section 36 of the Regulation, the Superintendent or Assistant Superintendent shall give a receipt in writing to the headman of the village by which the fine is paid, and a copy of the receipt shall be filed with the record of the Superintendent's proceedings in the case.

8. Compensation ordered to be paid under section 14, sub-section (2), of the Regulation, shall be paid by an officer not inferior in rank to an Assistant Superintendent, who shall obtain a receipt and certify on it that the compensation was paid in his presence. Every receipt under this rule shall be in duplicate. A copy of it shall be filed with the record of the Superintendent's proceedings in the case, and the original shall be sent to the treasury as a voucher for the payment.

9. Whenever the Superintendent takes action under section 16 of the Regulation, he shall record in writing an order stating the action to be taken and the reasons for it, as well as the manner and place of detention or confinement of the members of the tribe, clan, or village which is the subject of the order. A copy of the order shall be submitted at once to the Local Government. The detention or confinement of any person, and the detention or confiscation of any property, in pursuance of the order, shall be recorded by the Superintendent in a proceeding filed in his office and in a register kept in the form (III) prescribed for that purpose.

10. A copy of the entries made in the register prescribed by Rule 9 shall be submitted monthly to the Local Government.

11. Whenever the Superintendent orders the removal of a village under section 20 of the Regulation, he shall record a proceeding embodying the orders issued and the reasons therefor, and the amount and kind of compensation, if any, recommended. The proceeding shall be submitted to the Local Government.

12. Whenever the Superintendent takes action under section 21 (2) of the Regulation, he shall submit his recommendations in writing to the Local Government, stating the name of

the person or persons to be removed, and the reasons for removal. A return of all persons who have been ordered to remove and not permitted to return shall be submitted monthly, in the form (VII) attached, to the Local Government.

13. A register of orders issued under section 24 or section 25 of the Regulation shall be kept by the Superintendent in the form (VIII) attached to these rules.

14. The register of fire-arms kept under section 31, sub-section (*2*), of the Regulation shall be in the form (IX) annexed to these rules.

15. Besides the registers hereinbefore prescribed, the undermentioned registers shall be maintained in the forms attached to these rules by the Superintendent, and, if so ordered by the Superintendent, by Assistant Superintendents, namely—

(I) Register of headmen.
(II) Register of fines imposed under section 14.
(IV) Register of punishments of headmen.
(V) Register of orders directing the removal of villages.
(VI) Register of persons ordered to remove.
(X) Register of taxes.

16. Every Assistant Superintendent invested with powers under section 11 of the Regulation shall exercise those powers, subject to the control of the Superintendent, and shall submit reports, returns and proceedings to the Superintendent and not to the Local Government direct.

No. I.—Register of headmen in the *Chin Hills.*

Village or villages under the control of the headmen.	
Clan or clans	
Boundaries	
Name and designation of superior headmen, if any.	
Subordinate villages, if any . . .	
Clan or clans	
Name of subordinate headmen, if any . .	
Rate of tribute	

Remarks by Superintendent or Assistant Superintendent, including special note of any orders issued under section 5.

No. II.—Register of fines imposed under section 14 of the Chin Hills Regulation.

Serial No.	Clan or village.	Number of persons fined.	Aggregate value of property of clan, village or persons fined.	Amount of fine (if in money) or nature and description (if in goods).	Date of commission of offence in respect of which fine was imposed.	Date of collection of fine.	Amount awarded as compensation.	Remarks.

N.B.—This Register should be divided into separate parts for each clause of section 14.

No. III.—Register of persons detained or confined and property detained or confiscated under section 16 of the Chin Hills Regulation.

Number.	Date.	Clan or village.	Name of person detained or confined.	Limits within which confined.	List of property detained or confiscated.	Date of order and abstract of reasons for order.	Date of release of person or property from detention or confinement.	REMARKS.

No. IV.—Register of punishments of headmen (section 17).

Village.	Name of headman.	Brief statement of offence.	Punishment.	Date of order.	Superintendent's signature.

No. V.—Register of orders directing removal of villages (section 20).

Name of village.	Place to which removed.	Reasons of removal.	Date of order.	Compensation awarded, if any.	Date of sanction of Local Government to compensation.

No. VI.—Register of persons ordered to remove (section 21).

No.	Date of order.	Tract.	Village.	Clan and Tribe.	Persons ordered to remove.			Place to which removed.	Date of permission to return.	Abstract of reasons for order.	Orders of Local Government.	REMARKS.
					Name.	Age.	Occupation.					

No. VII.—Monthly return of persons who have been ordered to remove under section 21 of the Chin Hills Regulation and who have not been permitted to return.

No.	Date.	Village.	Clan.	Name of person.	Place to which removed.	Abstract of reasons.	Number and date of orders of Local Government.	Brief statement of reasons for not permitting to return.	REMARKS.

No. VIII.—Register of orders issued under sections 24 and 25 of the Chin Hills Regulation.

No.	Date.	Name of clan.	Name of family.	Name of individual.	Nature of bond ordered to be executed.	Period for which in force.	Whether bond has been executed or persons committed in default.	REMARKS.

No. IX.—Register of fire-arms licenses (section 31).

Name of clan or village..... *Maximum number of guns sanctioned*.....

No.	Name of village.	Name of license-holder.	Description of arms.	Number or mark on fire-arms.	REMARKS.

No. X.—Register of taxes.

Serial number.	Name of clan or village.	Year.	NUMBER OF HOUSES.		Amount outstanding in previous year.	Total amount due.	PAYMENTS.				COMMISSION.		REMARKS.
			Assessed.	Exempted.			Amount.	Date.	By whom.	How credited.	Amount paid.	To whom.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
					Rs.	Rs.	Rs.				Rs.		

Not more than two villages should be entered on one page, and entries for successive years should be made consecutively on the same page. In the remarks column should be shown the reasons for exemption, if granted.

[Burma Gazette, 1897, Pt. I, p. 212.]

No. 17, dated the 1st May, 1897.—In exercise of the power conferred by section 39, clause (*b*), of the Chin Hills Regulation, 1896, the Lieutenant-Governor is pleased to direct that the undermentioned registers, report and statements shall be maintained and submitted by the officers specified in each case :—

Judicial Register No. I.—Register of Chin cases.	To be maintained by every officer other than a headman exercising original criminal jurisdiction.
Register No. VI (Criminal) . .	To be maintained by every officer exercising appellate powers.
Register No. VII (Criminal) . .	To be maintained by every officer exercising revisionary powers.

Monthly statement of cases in Judicial Register (No. I) of Chin cases. Annual Report on the Administration of Criminal Justice with Annual Statements Nos. 2 and 6 (Criminal).	To be submitted to the Local Government by the Superintendent.

2. Judicial Register No. I shall be kept in the form annexed to this Notification. The forms to be used in the preparation of the other registers and statements above mentioned shall be those from time to time prescribed for the use of Criminal Courts in Upper Burma.

JUDICIAL REGISTER NO. I—REGISTER OF CHIN CASES.

(*Foolscap size.*)

Serial number of case.	Date of institution.	Name and residence of complainant.	Name and residence of defendant.	Full particulars of case, with date of origin.	Final decision, with remarks.	Fine imposed.	Fine realized.	How disposed of.
1	2	3	4	5	6	7	8	9
						Rs.	Rs.	Rs.

[Burma Gazette, 1897, Pt. I, p. 216.]

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LEGISLATIVE DEPARTMENT.

[*These publications may be obtained from the Office of the Superintendent of Government Printing, India, No. 8, Hastings Street, Calcutta.*]

The prices of the General Acts, Local Codes, Merchant Shipping Digest and Index to Enactments have been considerably reduced.

I.—THE INDIAN STATUTE-BOOK.

REVISED EDITION.

Super-royal 8vo, cloth, lettered.

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The unrepealed General Acts of the Governor General of India in Council, Vol. I, from 1834 to 1867, Edition 1898. R7 (10*a*.) ; Vol. II, from 1868 to 1876, Edition 1898. R5 (10*a*.) ; Vol. III, from 1877 to 1881, Edition 1898. R5 (9*a*.) ; Vol. IV, from 1882 to 1884, Edition 1898. R7 (10*a*.) ; Vol. V, from 1885 to 1890, Edition 1898. R5 (9*a*.) ; Vol. VI, from 1891 to 1898, Edition 1898. R7 (10*a*.)

B.—LOCAL CODES.

The Assam Code, Ed. **1897** ; containing the Bengal Regulations, Local Acts of the Governor General in Council, Regulations made under the Government of India Act, 1870 (33 Vict., Cap. 3), and Acts of the Lieutenant-Governor of Bengal in Council in force in Assam ; and lists of the enactments which have been notified for Scheduled Districts in Assam under the Scheduled Districts Act (XIV of 1874) ; with Chronological Tables and an Index. R7. (10*a*.)

The Burma Code, Edition 1899 ; R5. (9*a*.)

In the Press.

The Baluchistan Code, Edition 1899.

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION.

Act VIII of 1851 (Tolls on Roads and Bridges), as modified up to 1st June, 1897. 2*a*. 6*p*. (1*a*.)

Act III of 1858 (State Prisoners), as modified up to 1st August, 1897. 2*a*. (1*a*.)

Act XLV of 1860 (Indian Penal Code), as modified up to 1st July, 1899, with an Index. R (6*a*.)

Act XVI of 1861 (Stage-carriages), as modified up to 1st February, 1898. 3*a*. 6*p*. (1*a*.)

Act XV of 1869 (Prisoners' Testimony), as modified up to 1st December, 1898. 4*a*. 9*p*. (1*a*.)

Act VII of 1870 (Court-fees), as modified up to 1st October, 1899. R (2*a*.)

Act I of 1872 (Evidence), as modified up to 1st April, 1899. R1. (2*a*.)

Act III of 1877 (Registration), as modified up to 1st December, 1896 (with footnotes brought down to 1st August, 1898). 11*a*. (2*a*.)

Act XV of 1877 (Limitation), as modified up to 1st April, 1899. 12*a*. (2*a*.)

Act XII of 1881 (The North-Western Provinces Rent Act), as modified up to 1st July, 1897. R1-6. (2*a*.)

Act XV of 1881 (Factories), as modified up to 1st April, 1891, with footnotes brought down to 1st August, 1898. 5*a*. 6*p*. (1*a*. 6*p*.)

Act XVIII of 1881 (Central Provinces Land-revenue), as modified up to 1st November, 1898. R1-2. (2*a*.)

Act XXVI of 1881 (Negotiable Instruments), as modified up to 1st August, 1897. 10*a*. (1*a*.)

Act V of 1882 (Indian Easements), as amended by the Repealing and Amending Act, 1891 (XII of 1891). 8*a*. (1*a*.)

Act XIV of 1882 (Code of Civil Procedure), as reprinted from Vol. IV of the General Acts. R3. (6*a*.)

Act V of 1883 (Indian Merchant Shipping), as modified up to 1st April, 1898. 6*a*. (1*a*.)

Act XIV of 1887 (Indian Marine), as modified up to 15th February, 1899. 8*a*. (1*a*.)

Act IX of 1890 (Railways), as modified up to 1st May, 1896 (with footnotes brought down to 15th November, 1898), with an Index. 15*a*. (2*a*.)

Act XIV of 1891 (Oudh Courts), as amended by the Oudh Courts Act (1891) Amendment Act, 1897. 1*a*. 3*p*. (1*a*.)

In the Press.

Act IX of 1872 (Contract), as modified up to 1st September, 1899. *a* (*a*.)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*concld.*

Regulation III of 1872 (Sonthal Parganas Settlement), as modified up to 1st September, 1899. *a.* (1*a.*)

Regulation V of 1803 (Sonthal Parganas Justice), as modified up to 1st September, 1899. ()

III.—ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL AS ORIGINALLY PASSED.

Acts (unrepealed) of the Governor General of India in Council from 1897 up to date.

Regulations made under the Statute 33 Vict., Cap. 3, from 1897 up to date.

The above may be obtained separately. The price is noted on each.

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Act XVI of 1861 (Stage-carriages), as modified up to February, 1898. In Urdu. 1*a.* 3*p.* (1*a.*)

Ditto. In Nagri. 1*a.* 3*p.* (1*a.*)

Act XVIII of 1881 (Central Provinces Land Revenue), as modified up to 1st November 1898. In Urdu. 9*a.* (2*a.*)

Ditto. In Nagri. 9*a.* (2*a.*)

Act I of 1897 (Act XXXVII of 1850, Amendment). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

Act II of 1897 (Criminal Tribes Act Amendment). In Urdu. 3*p.* (1*a.*)

Act III of 1897 (Epidemic Diseases). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

Act IV of 1897 (Fisheries). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

Act VI of 1897 (Negotiable Instruments Act Amendment). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

Act VII of 1897 (Indian Emigration Act Amendment). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

Act VIII of 1897 (Reformatory Schools). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 9*p.* (1*a.*)

Act IX of 1897 (Provident Funds). In Urdu. 3*p.* (1*a.*)

Ditto. In Nagri. 3*p.* (1*a.*)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

Act X of 1897 (General Clauses). In Urdu. 1*a*. (1*a*.)
Ditto. In Nagri. 1*a*. (1*a*.)
Act XII of 1897 (Local Authorities (Emergency) Loans). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act XV of 1897 (Cantonments). In Urdu. 3*p*. (1*a*.)
Act I of 1898 (Stage-carriages Act (1861) Amendment). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act II of 1898 (Indian Paper Currency). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act III of 1898 (Lepers). In Urdu. 6*p*. (1*a*.)
Ditto. In Nagri. 6*p*. (1*a*.)
Act IV of 1898 (Indian Penal Code Amendment). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act V of 1898 (Criminal Procedure Code). In Urdu. R1-3-3. (6*a*.)
Ditto. In Nagri. R1-6. (6*a*.)
Act VI of 1898 (Post Office). In Urdu. 2*a*. (1*a*.)
Ditto. In Nagri. 2*a*. (1*a*.)
Act VIII of 1898 (Indian Paper Currency Act Amendment). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act IX of 1898 (Live-stock Importation). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act X of 1898 (Indian Insolvency Rules). In Urdu. 3*p*. (1*a*.)
Act I of 1899 (Indian Marine Act (1887) Amendment). In Urdu. 6*p*. (1*a*.)
Ditto. In Nagri. 6*p*. (1*a*.)
Act II of 1899 (Stamps). In Urdu. 4*a*. 3*p*. (1*a*. 6*p*.)
Ditto. In Nagri. 4*a*. 3*p*. (1*a*. 6*a*.)
Act IV of 1899 (Government Buildings). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act V of 1899 (Indian Evidence). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act VI of 1899 (Indian Contract Act Amendment). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)
Act VII of 1899 (Inland Steam-vessels Act (1884) Amendment). In Urdu. 3*p*. (1*a*.)
Ditto. In Nagri. 3*p*. (1*a*.)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*concld.*

Act VIII of 1899 (Petroleum). In Urdu. 9*p.* (1*a.*)
Ditto. In Nagri. 9*p.* (1*a.*)
Act IX of 1899 (Arbitration). In Urdu. 9*p.* (1*a.*)
Ditto. In Nagri. 9*p.* (1*a.*)
Act XI of 1899 (Court-fees Amendment). In Urdu. 6*p.* (1*a.*)
Ditto. In Nagri. 6*p.* (1*a.*)
Act XII of 1899 (Currency Notes Forgery). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)
Act XIV of 1899 (Tariff Amendment). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)
Act XVII of 1899 (Indian Registration Amendment). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)
Act XVIII of 1899 (Land Improvement Loans Amendment). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)

In the Press.

Act XV of 1869 (Prisoners' Testimony), as modified up to 1st December, 1898. In Urdu.
Ditto. In Nagri.
Act XV of 1877 (Indian Limitation), as modified up to 1st April, 1899. In Urdu.
Act XIV of 1887 (Indian Marine), as modified up to 15th February, 1899. In Urdu.
Ditto. In Nagri.

V.—MISCELLANEOUS PUBLICATIONS.

Annual Indexes to the Acts of the Governor General of India in Council for 1897 and 1898. The price is noted on each.

Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations from 1897 to date. Super-royal 4to. Annual subscription R5. (R1); single issue 4*a.*, including postage.

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Copies of the first edition, compiled by Stephen Jacob, I.C.S., and of the second edition, compiled by W. F. Agnew, Barrister-at-Law, can be had at R2. *(12a.)*

The Quetta Municipal Law, 1896. In Urdu. 3*a.* 3*p.* (1*a.* 6*p.*)

LIST OF THE BOOKS AND PUBLICATIONS FOR SALE WHICH ARE MORE THAN TWO YEARS OLD.

LEGISLATIVE DEPARTMENT.

[*These publications may be obtained from the Office of the Superintendent of Government Printing, India, No. 8, Hastings Street, Calcutta.*]

The prices of the General Acts, Local Codes, Merchant Shipping Digest and Index to Enactments have been considerably reduced.

I.—THE INDIAN STATUTE-BOOK.

REVISED EDITION.

Super-royal 8vo., cloth, lettered.

[The Collection of Statutes relating to India (Ed. 1881), the Baluchistan Code (Ed. 1890), the Burma Code (Ed. 1889), the Central Provinces Code (Ed. 1891) and the North-Western Provinces and Oudh Code (Ed. 1892), are out of print.]

B.—LOCAL CODES.

The Ajmere Code, Ed. **1883.** R3. (7*a.*)

The Bengal Code, Vol. I, Ed. **1889**; containing the Bengal Regulations, the Local Acts of the Governor General in Council and the Regulations made under 33 Vict., Cap. 3, in force in Bengal. R5. (10*a.*)

The Bengal Code, Vol. II, Ed. **1890**; containing the Acts of the Lieutenant-Governor of Bengal in Council in force in Bengal. R5. (R1.)

The Coorg Code, Ed. **1893.** R2. (6*a.*)

The Madras Code, Ed. **1888.** R5. (10*a.*)

The Punjab Code, Ed. **1888.** R4. (8*a.*)

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The Bombay Code, Vol. II, Ed. **1896**; containing the unrepealed Acts of the Governor of Bombay in Council up to the end of the year 1880. R5. (10*a.*)

The Bombay Code, Vol. III, Ed. **1896**; containing the unrepealed Acts of the Governor of Bombay in Council from 1881 to 1895. R6. (12*a.*)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION.

Acts X of 1841 and XI of 1850 (Registration of Ships), as modified up to 1st December, 1893. 7*a*. (1*a*.)

Act XX of 1847 (Copyright), as modified up to 1st May, 1896. 5*a*. (1*a*. 6*p*.)

Act IV of 1857 (Tobacco, Bombay Town), as modified up to 1st August, 1895. 3*a*. 9*p*. (1*a*.)

Act XXIX of 1857 (Land Customs, Bombay), as modified up to 1st December, 1895. 4*a*. (1*a*.)

Act V of 1861 (Police), as modified up to 1st March, 1895. 6*a*. 6*p*. (1*a*. 6*p*.)

Act XXIII of 1863 (Claims to Waste-lands), as modified up to 1st December, 1896. 4*a*. 9*p*. (1*a*.)

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Act XVII of 1864 (Official Trustees), as modified up to 1st July, 1890. 5*a*. 6*p*. (1*a*.)

Act X of 1865 (Succession), as modified up to 1st July, 1890. R1-8. (2*a*.)

Act III of 1867 (Gambling), as modified up to 1st December, 1896. 4*a*. (1*a*.)

Act XXV of 1867 (Printing-presses and Books), as modified up to 1st July, 1890. 5*a*. (1*a*.)

Act V of 1869 (Indian Articles of War), as modified up to 1st January, 1895, with an Index. R1-2. (2*a*.)

Act XX of 1869 (Volunteers), as modified up to 1st May, 1896. 4*a*. 9*p*. (1*a*.)

Act XXIII of 1870 (Coinage), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2602, 2663 and 2664, dated the 26th June, 1893, connected therewith. 4*a*. 9*p*. (1*a*.)

Act I of 1871 (Cattle-trespass), as modified up to 1st March, 1891. 5*a*. (1*a*.)

Act V of 1871 (Prisoners), as modified up to 1st May, 1894. 5*a*. 6*p*. (1*a*.)

Act XXVII of 1871 (Criminal Tribes), as modified up to 1st February, 1897. 5*a*. 6*p*. (1*a*. 6*p*.)

Act III of 1872 (Marriage), as modified up to 1st June, 1893. 4*a*. 6*p*. (1*a*.)

Act IV of 1872 (Punjab Laws), as modified up to 1st July, 1891. 7*a*. (1*a*.)

Act IX of 1872 (Contract), as modified up to 1st May, 1896. R1-4. (3*a*.)

Act XV of 1872 (Christian Marriage), as modified up to 1st January, 1894. 10*a*. (2*a*.)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*contd.*

Act V of 1873 (Savings Banks), as modified up to 1st July, 1894 3*a*. 6*p*. (1*a*.)

Act X of 1873 (Oaths), as modified up to 15th December, 1896. 3*a*. 3*p*. (1*a*.)

Act II of 1874 (Administrator General), as modified up to 1st July, 1890; with a list of Native States included within the Presidencies of Bengal, Madras and Bombay, respectively, for the purposes of the Act. 11*a*. (2*a*.)

Act XIV of 1874 (Scheduled Districts), as modified up to 1st October, 1895. 6*a*. (1*a*.)

Act XV of 1874 (Laws, Local Extent), as modified up to 1st October, 1895. 7*a*. (1*a*.)

Act I of 1877 (Specific Relief), as modified up to 1st May, 1896. 11*a*. (2*a*.)

Act I of 1878 (Opium), as modified up to 1st December, 1896. 4*a*. 9*p*. (1*a*.)

Act VII of 1878 (Forests), as modified up to 1st December, 1894. 10*a*. (2*a*.)

Act VIII of 1878 (Sea Customs), as modified up to 1st July, 1891. R1-5-3. (4*a*.)

Act XI of 1878 (Arms), as modified up to 1st December, 1896. 5*a*. 6*p*. (1*a*. 6*p*.)

Act XVII of 1879 (Dekkhan Agriculturists' Relief), as modified up to 1st March, 1895. 10*a*. (2*a*.)

Act XVIII of 1879 (Legal Practitioners), as modified up to 1st May, 1896. 7*a*. 6*p*. (1*a*.)

Act XX of 1879 (Glanders and Farcy), as modified up to 1st October, 1896. 3*a*. 3*p*. (1*a*.)

Act XXI of 1879 (Foreign Jurisdiction and Extradition), as modified up to 1st May, 1896. 4*a*. 9*p*. (1*a*.)

Act VII of 1880 (Merchant Shipping), as modified up to 15th October, 1891. 10*a*. (2*a*.)

Act V of 1881 (Probate and Administration), as modified up to 1st July, 1890. 12*a*. (2*a*.)

Act XIX of 1881 (Lower Burma Forests), as modified up to 1st July, 1890. 10*a*. (2*a*.)

Act I of 1882 (Assam Labour and Emigration), as modified up to 1st May, 1893. R1-2. (2*a*.)

Act IV of 1882 (Transfer of Property), as modified up to 1st April, 1893. 15*a*. (2*a*.)

Act VI of 1882 (Companies), as modified up to 1st August, 1895; with Appendices containing Table B in the Schedule to Act XIX of 1857 and the Indian Companies (Memorandum of Association) Act, 1895. R1-10. (3*a*. 6*p*.)

Act XII of 1882 (Salt), as modified up to 1st December, 1890. 6*a*. (1*a*.)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*contd.*

Act XV of 1882 (Presidency Small Cause Courts), as modified up to 1st February, 1895. 10*a.* (2*a.*)

Act XX of 1882 (Paper Currency), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663 and 2664, dated the 26th June, 1893, connected therewith. 5*a.* 6*p.* (1*a.* 6*p.*)

Act VIII of 1883 (Little Cocos and Preparis Islands Laws), as modified up to 1st January, 1895. 1*a.* 3*p.* (1*a.*)

Act XIX of 1883 (Land Improvement Loans), as modified up to 15th December, 1896. 2*a.* 6*p.* (1*a.*)

Act XXI of 1883 (Emigration), as modified up to 5th March, 1897. 11*a.* (1*a.* 6*p.*)

Act IV of 1884 (Explosives), as modified up to 1st May, 1896. 4*a.* 6*p.* (1*a.*)

Act VI of 1884 (Inland Steam-vessels), as modified up to 1st July, 1891. 9*a.* (2*a.*)

Act VII of 1884 (Steamships), as modified up to 1st July, 1890. 6*a.* (1*a.*)

Act XII of 1884 (Agriculturists' Loans), as modified up to 15th December, 1896. 1*a.* 3*p.* (1*a.*)

Act XVIII of 1884 (Punjab Courts), as modified up to 1st April, 1891. 7*a.* (1*a.* 6*p.*)

Act II of 1886 (License-tax Amendment), as modified up to 1st July, 1894. 8*a.* (1*a* 6*p.*)

Act VI of 1886 (Births, Deaths and Marriages Registration), as modified up to 1st June, 1891. 6*a.* (1*a.*)

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Act X of 1889 (Ports), as modified up to 1st December, 1896. 11*a.* (2*a.*)

Act XIII of 1889 (Cantonments), as modified up to 1st March, 1895. 7*a.* (1*a.*)

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Regulation III of 1876 (Andaman and Nicobar Islands), as modified up to 1st February, 1897. 5*a.* 6*p.* (1*a.*)

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Regulation III of 1886 (Sonthal Parganas Laws), as modified up to 1st February, 1897. 1*a.* 9*p.* (1*a.*)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*concld.*

Regulation VI of 1886 (Ajmere Rural Boards), as modified up to 1st February, 1897. 5*a.* 6*p.* (1*a.*)

Regulation XIV of 1887 (Upper Burma Villages), as modified up to 1st April, 1891. 5*a.* (1*a.*)

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Acts (unrepealed) of the Governor General of India in Council from 1854 to 1896.

Regulations made under the Statute 33 Vict., Cap. 3, from No. II of 1875 to 1896, 8vo. Stitched.

The above may be obtained separately. The price is noted on each.

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Act XX of 1847 (Copyright), as modified up to 1st May, 1896. In Urdu. 1*a.* 3*p.* (1*a.*)

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Act XXXVI of 1858 (Lunatic Asylums), as modified up to 1st March, 1893. In Urdu. 1*a.* 3*p.* (1*a.*)

Act XLV of 1860 (Penal Code), as modified up to 1st January, 1893. In Urdu. R1. (5*a.*)

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Ditto. In Nagri. 2*a.* 3*p.* (1*a.*)

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Act VII of 1870 (Court-fees), as modified up to 1st December, 1896. In Urdu. 8*a.* 3*p.* (2*a.* 6*p.*)

Ditto. In Nagri. 8*a.* 3*p.* (2*a.* 6*p.*)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

Act XXIII of 1870 (Coinage), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663 and 2664, dated the 26th June, 1893, connected therewith. In Urdu. 1*a*. 3*p*. (1*a*.)

Act I of 1871 (Cattle-trespass), as modified up to 1st March, 1891. In Urdu. 1*a*. 9*p*. (1*a*.)

Act V of 1871 (Prisoners), as modified up to 1st May, 1894. In Urdu. 1*a*. 9*p*. (1*a*.)

Act I of 1872 (Evidence), as modified up to 1st May, 1891 (with footnotes brought down to 15th December, 1896). In Urdu. 8*a*. (2*a*.)

Ditto. In Nagri. 8*a*. (2*a*.)

Act IV of 1872 (Punjab Laws), as modified up to 1st July, 1891. In Urdu. 2*a*. 6*p*. (1*a*. 6*p*.)

Act IX of 1872 (Contract), as modified up to 1st June, 1893. In Urdu. 12*a*. (4*a*.)

Act XV of 1872 (Christian Marriage), as modified up to 1st April, 1891. In Urdu. 4*a*. (2*a*.)

Ditto. In Nagri. 4*a*. (2*a*.)

Act X of 1873 (Oaths), as modified up to 15th December, 1896. In Urdu. 9*p*. (1*a*.)

Ditto. In Nagri. 1*a*. (1*a*.)

Act I of 1877 (Specific Relief), as modified up to 1st July, 1894. In Urdu. 5*a*. (1*a*. 6*p*.)

Act III of 1877 (Registration), as modified up to 1st December, 1896. In Urdu. 4*a*.3*p*. (2*a*.)

Ditto. In Nagri. 4*a*. 6*p*. (2*a*.)

Act I of 1878 (Opium), as modified up to 1st December, 1896. In Urdu. 1*a*. 3*p*. (1*a*.)

Ditto. In Nagri. 1*a*. 6*p*. (1*a*.)

Act VII of 1878 (Forests), as modified up to 1st December, 1894. In Urdu. 4*a*. (1*a*. 6*p*.)

Ditto. In Nagri. 3*a*. 9*p*. (1*a*. 6*p*.)

Act XI of 1878 (Arms), as modified up to 1st December, 1896. In Urdu. 2*a*. (1*a*.)

Ditto. In Nagri. 1*a*. 3*p*. (1*a*.)

Act XVIII of 1879 (Legal Practitioners), as modified up to 1st May, 1896. In Urdu. 2*a*. 6*p*. (1*a*.)

Ditto. In Nagri. 2*a*. 6*p*. (1*a*.)

Act XX of 1879 (Glanders and Farcy), as modified up to 1st October, 1896. In Urdu. 1*a*. (1*a*.)

Ditto. In Nagri. 1*a*. (1*a*.)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

Act XXI of 1879 (Foreign Jurisdiction and Extradition), as modified up to 1st May, 1896. In Urdu. 1*a.* 6*p.* (1*a.*)

Ditto. In Nagri. 1*a.* 6*p.* (1*a.*)

Act XV of 1881 (Factories), as modified up to 1st April, 1891. In Urdu. 1*a.* 6*p.* (1*a.*)

Ditto. In Nagri. 1*a.* 6*p.* (1*a.*)

Act I of 1882 (Assam Labour and Emigration), as modified up to 1st May, 1893. In Urdu. 6*a.* (2*a.*)

Ditto. In Nagri. 6*a.* (2*a.*)

Act XX of 1882 (Paper Currency), as modified up to 27th June, 1883 ; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663 and 2664, dated the 26th June, 1893, connected therewith. In Urdu. 1*a.* 6*p.* (1*a.*)

Act XIX of 1883 (Land Improvement Loans), as modified up to 15th December, 1896. In Urdu. 1*a.* (1*a.*)

Ditto. In Nagri. 1*a.* (1*a.*)

Act IV of 1884 (Explosives), as modified up to 1st May, 1896. In Urdu. 1*a.* 3*p.* (1*a.*)

Ditto. In Nagri. 1*a.* 3*p.* (1*a.*)

Act XII of 1884 (Agriculturists' Loans), as modified up to 15th December, 1896. In Urdu. 6*p.* (1*a.*)

Ditto. In Nagri 6*p.* (1*a.*)

Act XVIII of 1884 (Punjab Courts), as modified up to 1st May, 1894. In Urdu. 2*a.* 6*p.* (1*a.* 6*p.*)

Act XIII of 1885 (Telegraphs), as modified up to 1st March, 1893. In Urdu. 1*a.* 9*p.* (1*a.*)

Act IX of 1887 (Provincial Small Cause Courts), as modified up to 1st December, 1896. In Urdu. 2*a.* 3*p.* (1*a.*)

Ditto. In Nagri. 2*a.* 6*p.* (1*a.*)

Act III of 1888 (Police), as modified up to 1st March, 1893. In Urdu. 6*p.* (1*a.*)

Act IV of 1888 (Indian Reserve Forces), as modified up to 1st March, 1893. In Urdu. 3*p.* (1*a.*)

Act IV of 1889 (Merchandise Marks), as modified up to 1st June, 1891. In Urdu. 2*a.* (1*a.*)

Act VII of 1889 (Succession Certificates). In Urdu. 1*a.* 6*p.* (1*a.*)

Act X of 1889 (Ports), as modified up to 1st June, 1894. In Urdu. 5*a.* (2*a.*)

Act XIII of 1889 (Cantonments), as modified up to 1st March, 1895. In Urdu. 2*a.* 3*p.* (1*a.* 9*p.*)

Ditto. In Nagri. 3*a.* (1*a.* 9*p.*)

Act XV of 1889 (Official Secrets). In Urdu. 3*p.* (1*a.*)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*contd.*

Act I of 1890 (Revenue Recovery). In Urdu. 3*p*. (1*a*.)

Act VIII of 1890 (Guardians and Wards). In Urdu. 2*a*. 3*p*. (1*a*. 9*p*.)

Act IX of 1890 (Railways), as modified up to 1st May, 1896. In Urdu. 8*a*. (2*a*.)

Ditto. In Nagri. 8*a*. (2*a*.)

Act V of 1891 (Ports Act Amendment). In Urdu. 3*p*. (1*a*.)

Act VI of 1892 (Limitation Act and Civil Procedure Code Amendment). In Urdu. 3*p*. (1*a*.)

Act IV of 1893 (Partition). In Urdu. 3*p*. (1*a*.)

Act VIII of 1893 (Coinage and Paper Currency Acts Amendment). In Urdu. 3*p*. (1*a*.)

Ditto. In Nagri. 3*p*. (1*a*.)

Act X of 1893 (Excise Act Amendment). In Urdu 3*p*. (1*a*.)

Ditto. In Nagri. 3*p*. (1*a*.)

Act I of 1894 (Land Acquisition). In Urdu. 2*a*. 3*p*. (1*a*. 6*p*.)

Ditto. In Nagri. 1*a*. 6*p*. (1*a*. 6*p*.)

Act III of 1894 (Criminal Procedure and Penal Codes Amendment). In Urdu. 3*p*. (1*a*.)

Act V of 1894 (Civil Procedure Code Amendment). In Urdu. 3*p*. (1*a*.)

Ditto. In Nagri. 3*p*. (1*a*.)

Act VIII of 1894 (Tariff), as modified up to 1st March, 1896. In Urdu. 4*a*. 9*p*. (1*a*.)

Ditto. In Nagri 4*a*. 3*p*. (2*a*.)

Act IX of 1894 (Prisons). In Urdu. 1*a*. 6*p*. (1*a*.)

Ditto. In Nagri. 1*a*. 6*p*. (1*a*.)

Act X of 1894 (Criminal Procedure Code Amendment). In Urdu. 3*p*. (1*a*.)

Act XVI of 1894 (Tariff Act Amendment). In Urdu. 2*a*. 6*p*. (1*a*. 6*p*.)

Ditto. In Nagri. 2*a*. (1*a*.)

Act XVII of 1894 (Cotton duties). In Urdu. 1*a*. (1*a*.)

Ditto. In Nagri. 1*a*. (1*a*.)

Act IV of 1895 (Criminal Procedure Code Amendment). In Urdu. 3*p*. (1*a*.)

Ditto. In Nagri. 3*p*. (1*a*.)

Act VII of 1895 (Civil Procedure Code and Punjab Laws Act Amendment). In Urdu. 3*p*. (1*a*.)

Ditto. In Nagri. 3*p*. (1*a*.)

Act XII of 1895 (Companies—Memorandum of Association). In Urdu. 3*a*. (1*a*.)

Act XIV of 1895 (Pilgrim Ships). In Urdu. 1*a*. 3*p*. (1*a*.)

IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL—*concld.*

Act II of 1896 (Cotton duties). In Urdu. 1*a.* 3*p.* (1*a.*)
Ditto. In Nagri. 1*a.* (1*a.*)

Act VIII of 1896 (Inland Bonded Warehouses). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)

Act XII of 1896 (Excise). In Urdu. 1*a.* 9*p.* (1*a.*)
Ditto. In Nagri. 1*a.* 9*p.* (1*a.*)

Act XV of 1896 (Glanders and Farcy Act Amendment). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)

Act XXI of 1896 (Indian Paper Currency Act Amendment). In Urdu. 3*p.* (1*a.*)
Ditto. In Nagri. 3*p.* (1*a.*)

Regulation V of 1890 (British Baluchistan Forests). In Urdu. 2*a.* (1*a.* 6*p.*)

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